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1 COMMITTEE PRINT OF S. 1527 AS REVISED FOR COMMITTEE

2 CONSIDERATION

3 That this Act may be cited as the ``Federal Retirement Reform  
4 Act of 1985``.

5 PURPOSES

6 Sec. 2. The purposes of this Act are--

7 (1) to provide Federal employees with a retirement  
8 benefits plan which is comparable to good private sector  
9 retirement benefits plans;

10 (2) to assist in building a quality career work force  
11 in the Federal Government;

12 (3) to promote financial stability and flexibility  
13 for the future of each Federal employee;

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1 (4) to ensure a fully funded and financially sound  
2 Federal Government retirement benefits plan;

3 (5) to enhance portability of retirement assets  
4 between Federal jobs and jobs outside the Federal  
5 Government;

6 (6) to increase the options of each Federal employee  
7 with respect to retirement benefits plans;

8 (7) to encourage Federal employees to increase  
9 personal savings for retirement;

10 (8) to include Federal employees in the investment  
11 decisionmaking process with respect to the assets of the  
12 retirement system; and

13 (9) to extend financial protection from disability to  
14 additional Federal employees and to increase such  
15 protection for eligible Federal employees.

16 TITLE I--FEDERAL RETIREMENT SYSTEM

17 ESTABLISHMENT

18 Sec. 101. (a) Title 5, United States Code, is amended by  
19 inserting after chapter 83 the following new chapter:

20 ``CHAPTER 84--FEDERAL RETIREMENT SYSTEM

``SUBCHAPTER I--DEFINITIONS; FEDERAL RETIREMENT SYSTEM

``Sec.

``8401. Definitions.

``8402. Federal Retirement System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement to immediate retirement.

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- ``8412. Entitlement to deferred retirement.
- ``8413. Computation of annuity.
- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of payments.
- ``8417. Level benefits option.
- ``8418. Contributions.
- ``8419. Funding of annuity attributable to military service.
- ``8420. Lump-sum benefits; designation of beneficiaries;  
order of precedence.

#### ``SUBCHAPTER III--THRIFT SAVINGS PLAN

- ``8421. Contributions.
- ``8422. Vesting.
- ``8423. Entitlement and elections relating to entitlement.
- ``8424. Annuities: methods of payment; election; and  
computation.
- ``8425. Administrative provisions relating to payments and  
elections.
- ``8426. Thrift Savings Fund.
- ``8427. Investment of Thrift Savings Fund.
- ``8428. Accounting.

#### ``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan spousal benefits relating to the death of  
a participant or former participant other than an  
annuitant.
- ``8432. Basic plan spousal and insurable interest benefits  
relating to the death of an annuitant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Basic and thrift savings plan survivor benefits  
relating to marriage after commencement of an  
annuity.
- ``8435. Survivor benefits for former spouses: entitlements;  
amount.
- ``8436. Survivor benefits for former spouses: elections,  
deposits and collections, and administrative  
provisions.
- ``8437. Termination of entitlement.
- ``8438. Deposits to the Fund.

#### ``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.

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- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. Military reserve technicians.
- ``8450. Administrative provisions.
- ``8451. Annual accounting; special contingency reserve.
- ``8452. Federal Employees' Disability Insurance Fund.

``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8461. Authority of the Office of Personnel Management.
- ``8462. Cost-of-living adjustment in basic plan annuities and survivor annuities.
- ``8463. Rate of benefits.
- ``8464. Commencement and termination of annuities.
- ``8465. Waiver, allotment, and assignment of benefits.
- ``8466. Application for benefits.
- ``8467. Court orders.
- ``8468. Annuities and pay on reemployment.
- ``8469. Information.

``SUBCHAPTER VII--TRANSITION PROVISIONS

- ``8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
- ``8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
- ``8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.
- ``8474. Reemployed annuitants under a Government retirement system.
- ``8475. Exemption from certain offset provisions of the Social Security Act.
- ``8476. Regulations.

``SUBCHAPTER VIII--FEDERAL RETIREMENT THRIFT INVESTMENT  
MANAGEMENT SYSTEM

- ``8491. Federal Retirement Thrift Investment Board.
- ``8492. Federal Retirement Thrift Advisory Committee.
- ``8493. Employee Advisory Committee.
- ``8494. Executive Director.
- ``8495. Investment policy.
- ``8496. Administrative provisions.
- ``8497. Fiduciary responsibilities; liability and penalty.
- ``8498. Bonding.
- ``8499. Exculpatory provisions; insurance.



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1       ``SUBCHAPTER I--DEFINITIONS; FEDERAL RETIREMENT SYSTEM

2       ``§ 8401. Definitions

3       ``Except as otherwise provided in this chapter, for the  
4 purposes of this chapter--

5           ``(1) the term 'account', when used with respect to a  
6 participant or annuitant, means an account established  
7 and maintained under section 8428(a) of this title;

8           ``(2) the term 'annuitant' means a former participant  
9 who is entitled to an annuity under this chapter and who  
10 has applied under this chapter for the payment of the  
11 annuity to commence;

12           ``(3) the term 'average pay', when used with respect  
13 to a participant, means the largest annual rate resulting  
14 from averaging the participant's rates of basic pay in  
15 effect over any 5 consecutive years of creditable service  
16 or, in the case of an annuity under this chapter based on  
17 service of less than 5 years, over the total service,  
18 with each rate weighted by the period it was in effect;

19           ``(4) the term 'basic pay', when used with respect to  
20 a participant--

21           ``(A) means the lesser of--

22           ``(i) the basic pay of the participant  
23 established pursuant to law, without regard to  
24 any provision of law (except sections 5308 and  
25 5382(b) of this title) limiting the rate of pay

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1 actually payable in any pay period (including any  
2 provision of law restricting the use of  
3 appropriated funds); or

4 ``(11) the rate of basic pay payable for  
5 level I of the Executive Schedule; and

6 ``(B) includes the items described in  
7 subparagraphs (A) through (D) of paragraph (3) of  
8 section 8331 of this title and does not include the  
9 items excluded by such paragraph;

10 ``(5) the term 'Board' means the Federal Retirement  
11 Thrift Investment Board established by section 8491(a) of  
12 this title;

13 ``(6) the term 'Civil Service Retirement and  
14 Disability Fund' means the Civil Service Retirement and  
15 Disability Fund referred to in section 8348 of this  
16 title;

17 ``(7) the term 'court', when used with respect to a  
18 judgment, decree, order, or other judicial action, means  
19 any court of the United States, a State, the District of  
20 Columbia, the Commonwealth of Puerto Rico, or a territory  
21 or possession of the United States, or any Indian court,  
22 having jurisdiction to issue such judgment, decree, or  
23 order or to take such other judicial action;

24 ``(8) the term 'Director' means the Director of the  
25 Office of Personnel Management;

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1       “(9) the term ‘dynamic assumptions’ means economic  
2 assumptions that are used in determining actuarial costs  
3 and liabilities of a retirement system and in  
4 anticipating the effects of long-term future--

5               “(A) investment yields,

6               “(B) increases in rates of basic pay, and

7               “(C) rates of price inflation;

8       “(10) the term ‘earnings’, when used with respect to  
9 the Thrift Savings Fund, means the amount of the gain  
10 experienced or yield received from the investment of sums  
11 in such fund;

12       “(11) the term ‘eligible former spouse’, when used  
13 with respect to a participant or former participant,  
14 means a former spouse of the participant or former  
15 participant who was married to the participant or former  
16 participant for at least 9 months;

17       “(12) the term ‘employee’ means--

18               “(A) each individual referred to in  
19 subparagraphs (A), (E), (F), (H), (I), and (J) of  
20 section 8331(1) of this title, including an employee  
21 of the United States Park Police and an employee of  
22 the United States Secret Service; and

23               “(B) a Congressional employee as defined in  
24 section 2107 of this title, including a temporary  
25 Congressional employee;

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1 any of whose employment by the Government after December  
2 31, 1983, is employment for the purposes of title II of  
3 the Social Security Act and chapter 21 of the Internal  
4 Revenue Code of 1954, except that such term does not  
5 include any individual referred to in clause (i), (ii),  
6 (v), (vi), or (ix) of paragraph (1) of section 8331 of  
7 this title or in the undesignated material after clause  
8 (ix) of such paragraph, any individual excluded under  
9 section 8402(b)(2) of this title, or any individual who  
10 was subject to subchapter III of chapter 33 of this title  
11 on December 31, 1983, and has not commenced participation  
12 in the System pursuant to section 8471 of this title;

13 "(13) the term 'Employee Advisory Committee' means  
14 the Employee Advisory Committee established in accordance  
15 with section 8493 of this title;

16 "(14) the term 'Executive Director' means the  
17 Executive Director appointed under section 8494(a)(1) of  
18 this title;

19 "(15) the term 'firefighter' means--

20 (A) an employee the duties of whose position--

21 "(1) are primarily to perform work directly  
22 connected with the control and extinguishment of  
23 fires; and

24 "(ii) are sufficiently rigorous that  
25 employment opportunities are required to be

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1           limited to young and physically vigorous  
2           individuals, as determined by the Director  
3           considering the recommendation of the employing  
4           agency; and

5           ``(B) an employee who is transferred directly to  
6           a supervisory or administrative position after  
7           performing duties described in subparagraph (A) of  
8           this paragraph for at least 10 years;

9           ``(16) the term 'Fund' means the Civil Service  
10          Retirement and Disability Fund;

11          ``(17) the term 'Government' means the Federal  
12          Government and Gallaudet College;

13          ``(18) the term 'law enforcement officer' means--

14            ``(A) an employee, the duties of whose position--

15                ``(i) are primarily (I) the investigation,  
16                apprehension, or detention of individuals  
17                suspected or convicted of offenses against the  
18                criminal laws of the United States, or (II) the  
19                protection of officials of the United States  
20                against threats to personal safety; and

21                ``(ii) are sufficiently rigorous that  
22                employment opportunities are required to be  
23                limited to young and physically vigorous  
24                individuals, as determined by the Director  
25                considering the recommendation of the employing

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1 agency; and

2 `` (B) an employee who is transferred directly to  
3 a supervisory or administrative position after  
4 performing duties described in subparagraph (A) of  
5 this paragraph for at least 10 years;

6 `` (19) the term 'loss', when used with respect to the  
7 Thrift Savings Fund, means the amount of the loss  
8 experienced from the investment of sums in such fund;

9 `` (20) the term 'lump-sum credit' has the same  
10 meaning as provided by section 8331(8) of this title;

11 `` (21) the term 'Member' has the same meaning as  
12 provided in section 2106 of this title, except that such  
13 term does not include a person who (A) was a Member of  
14 Congress on December 31, 1983, and (B) has not commenced  
15 participation in the System pursuant to section 8471 of  
16 this title;

17 `` (22) the term 'military reserve technician' means a  
18 member of one of the reserve components of the Armed  
19 Forces specified in section 261(a) of title 10 who--

20 `` (A) is assigned to a civilian position as a  
21 technician in the administration and training of such  
22 reserve components or in the maintenance and repair  
23 of supplies issued to such reserve components; and

24 `` (B) as a condition of employment in such  
25 position, is required to be a member of one of such

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1 reserve components serving in a specified military  
2 grade;

3 ``(23) the term 'net earnings' means the excess of  
4 earnings over losses;

5 ``(24) the term 'net losses' means the excess of  
6 losses over earnings;

7 ``(25) the term 'normal cost' means the entry-age  
8 normal cost of the provisions of the System which relate  
9 to the Fund, computed by the Office in accordance with  
10 generally accepted actuarial practice and standards  
11 (using dynamic assumptions) and expressed as a level  
12 percentage of aggregate basic pay;

13 ``(26) the term 'Office' means the Office of  
14 Personnel Management;

15 ``(27) the term 'participant' means an employee or  
16 Member or a person who is receiving disability benefits  
17 under subchapter V of this chapter;

18 ``(28) the term 'price index' has the same meaning as  
19 provided in section 8331(15) of this title;

20 ``(29) the term 'service', when used with respect to  
21 a participant or former participant, means--

22 ``(A) employment as a participant after December  
23 31, 1986;

24 ``(B) service which is creditable under section  
25 8473 of this title;

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1           ``(C) subject to section 8419(a) of this title,  
2           military service as provided in section 8332(c) of  
3           this title;

4           ``(D) service that is creditable under subchapter  
5           III of chapter 83 of this title, but only for the  
6           purposes provided in section 8472(a) of this title;  
7           and

8           ``(E) leaves of absence commencing after December  
9           31, 1986, under the same conditions and subject to  
10          the same limitations as are prescribed in section  
11          8332(f) of this title; and

12          is computed as the full years and twelfth parts thereof,  
13          excluding from the aggregate the fractional part of a  
14          month, if any;

15          ``(30) the term 'supplemental liability' means the  
16          estimated excess of--

17                ``(A) the actuarial present value of all future  
18                benefits payable from the Fund under this chapter,  
19                over

20                ``(B) the sum of--

21                    ``(i) the actuarial present value of the  
22                    future contributions to be made on behalf of  
23                    participants pursuant to section 8418(a) of this  
24                    title; and

25                    ``(ii) the balance in the Fund attributable



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1           to the System on the date the supplemental  
2           liability is determined; and  
3           “(31) the term ‘System’ means the Federal Retirement  
4           System described in section 8402(a) of this title.  
5    “§ 8402. Federal Retirement System; participation  
6           “(a) The provisions of this chapter comprise the Federal  
7           Retirement System.  
8           “(b)(1) Except as provided in paragraph (2) of this  
9           subsection, each employee and Member shall be a participant  
10          in the System.  
11          “(2)(A) The Office may exclude from the operation of  
12          this chapter an employee or group of employees in or under an  
13          Executive agency whose employment is temporary or  
14          intermittent, except an employee whose employment is part-  
15          time career employment (as defined in section 3401(2) of this  
16          title).  
17          “(B) The Architect of the Capitol may exclude from the  
18          operation of this chapter an employee under the Office of the  
19          Architect of the Capitol whose employment is temporary or of  
20          uncertain duration.  
21          “(C) The Librarian of Congress may exclude from the  
22          operation of this chapter an employee under the Library of  
23          Congress whose employment is temporary or of uncertain  
24          duration.  
25    “§ 8403. Relationship to the Social Security Act

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1        ``Except as otherwise provided in this chapter, the  
2        benefits payable under the System are in addition to the  
3        benefits payable under the Social Security Act.

4                    ``SUBCHAPTER II--BASIC PLAN

5        ``§ 8411. Entitlement to immediate retirement

6            `` (a) An employee or a Member who is separated from  
7        Government employment after becoming 55 years of age and  
8        completing 10 years of service is entitled to an immediate  
9        annuity.

10          `` (b) An employee or a Member who is separated from  
11        Government employment after becoming 62 years of age and  
12        completing 5 years of service is entitled to an immediate  
13        annuity.

14          `` (c) An employee who is separated from Government  
15        employment--

16            `` (1) after becoming 50 years of age and completing  
17        20 years of service as a law enforcement officer or  
18        firefighter, or any combination of such service totaling  
19        at least 20 years, or

20            `` (2) after completing 25 years of service as a law  
21        enforcement officer or firefighter, or any combination of  
22        such service totaling at least 25 years,  
23        is entitled to an immediate annuity. The provisions of  
24        section 8335(b) of this title, relating to mandatory  
25        separation, shall apply to a participant who is a law

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1 enforcement officer or a firefighter.

2       “(d) An employee who is separated from Government

3 employment--

4           “(1) after becoming 50 years of age and completing

5 20 years of service as an air traffic controller, or

6           “(2) after completing 25 years as an air traffic

7 controller,

8 is entitled to an immediate annuity. The provisions of

9 section 8335(a) of this title, relating to mandatory

10 separation, shall apply to a participant who is an air

11 traffic controller.

12       “(e)(1) Except as provided in paragraphs (2) and (3) of

13 this subsection, any employee who has completed 25 years of

14 service, or is not less than 50 years of age and has

15 completed 20 years of service, and who--

16           “(A) is separated from Government employment

17 involuntarily, except by removal for cause on charges of

18 misconduct or delinquency, or

19           “(B) while serving in a geographic area designated

20 by the Director, is voluntarily separated from Government

21 employment during a period that (as determined by the

22 Director)--

23           “(1) the agency in which the employee is serving

24 is undergoing a major reorganization, a major

25 reduction in force, or a major transfer of function,

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1 and

2           “(11) a significant percentage of the total  
3 number of employees serving in such agency will be  
4 separated or subject to an immediate reduction in the  
5 rate of basic pay (without regard to subchapter VI of  
6 chapter 53 of this title or comparable provisions),  
7 is entitled to an immediate annuity.

8           “(2) An employee described in paragraph (1)(A) of this  
9 subsection is not entitled to an annuity under this  
10 subsection if the employee has declined a reasonable offer of  
11 another position in the employee's agency for which the  
12 employee is qualified and the offered position is not lower  
13 than 2 grades or pay levels below the employee's grade or pay  
14 level and is within the employee's commuting area.

15           “(3) Paragraph (2) of this subsection shall not apply to  
16 a firefighter, law enforcement officer, or air traffic  
17 controller.

18           “(f) An annuity authorized by this section is computed  
19 under sections 8413 through 8415 of this title.

20    “§ 8412. Entitlement to deferred retirement

21           “(a) A participant who is under 55 years of age and  
22 separates from Government employment after completing 10  
23 years of service is entitled to an annuity to commence on or  
24 after the date the participant becomes 55 years of age but  
25 not later than the date the participant becomes 62 years of

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1 age, as elected by the participant under rules prescribed by  
2 the Office.

3 `` (b) A participant who is under 62 years of age and  
4 separates from Government employment after completing 5 years  
5 of service and before completing 10 years of service is  
6 entitled to an annuity to commence on the date the  
7 participant becomes 62 years of age.

8 `` (c) An annuity authorized by this section is computed  
9 under sections 8413 through 8415 of this title.

10 `` § 8413. Computation of annuity

11 `` (a)(1) Except as provided in section 8414 or 8415 of  
12 this title--

13 `` (A) if an annuitant has not elected to make a  
14 contribution under section 8418(c) of this title, the  
15 amount of the annuity the annuitant is entitled to  
16 receive under this subchapter shall be equal to--

17 `` (i) 0.9 percent of the annuitant's average pay  
18 multiplied by so much of the annuitant's total  
19 service as does not exceed 15 years; and

20 `` (ii) 1.1 percent of the annuitant's average pay  
21 multiplied by so much of the annuitant's total  
22 service as exceeds 15 years; or

23 `` (B) if an annuitant has elected to make a  
24 contribution under section 8418(c) of this title, the  
25 amount of the annuity the annuitant is entitled to

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1 receive under this subchapter shall be equal to--

2        “(1) 1.1 percent of the annuitant's average pay  
3 multiplied by so much of the annuitant's total  
4 service as does not exceed 10 years; and

5        “(1i) 1.35 percent of the annuitant's average  
6 pay multiplied by so much of the annuitant's total  
7 service as exceeds 10 years.

8        “(2) For the purposes of computing the amount of an  
9 annuity under paragraph (1) of this subsection, the total  
10 service of a participant who separates from Government  
11 employment entitled to an immediate annuity or who dies  
12 leaving a survivor or survivors entitled to a survivor  
13 annuity under this chapter includes days of unused sick leave  
14 credited to the participant under a formal leave system to  
15 the same extent that unused sick leave is credited in  
16 computing an annuity of a person who is subject to subchapter  
17 III of chapter 83 of this title, as provided in section  
18 8339(m) of this title.

19        “(b)(1) A former participant who is entitled to receive  
20 an annuity under subsection (c) or (d) of section 8411 of  
21 this title shall also be entitled to receive an annuity  
22 supplement, in addition to the amount of the annuity computed  
23 under subsection (a) of this section, while the former  
24 participant is under 62 years of age.

25        “(2) The amount of the annuity supplement payable to a

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1 former participant under paragraph (1) of this subsection  
2 shall be equal to the estimated amount of the benefits that--

3       “(A) the former participant would be entitled to  
4 receive under title II of the Social Security Act if the  
5 participant were 62 years of age on the date the annuity  
6 referred to in such paragraph commences; and

7       “(B) is attributable to service referred to in  
8 section 8411(c) or 8411(d) of this title, as the case may  
9 be,

10 computed on the date such annuity commences and increased as  
11 provided in paragraph (3) of this subsection.

12       “(3) Effective on January 1 of each year, the amount of  
13 the annuity supplement payable to a former participant under  
14 this subsection shall be increased by the percentage  
15 increase, if any, in the SSA average wage index (as defined  
16 in section 215(1)(1)(G) of the Social Security Act) published  
17 for November of the immediately preceding year over such  
18 index published for November of the year ending immediately  
19 before such preceding year.

20       “(c) In computing under this section the annuity of an  
21 individual who has performed service on less than a full-time  
22 basis, such service shall be credited on a proportional basis  
23 equal to the fraction that such service is of full-time  
24 service, and the annual rate of basic pay that would be  
25 payable for full-time service in the position shall be deemed

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1 to be the rate of basic pay.

2 ``§ 8414. Reduction for early retirement

3 ``(a) Except as provided in subsection (b), the annuity  
4 computed under section 8413(a) of this title (without regard  
5 to this section or section 8415 of this title)--

6 ``(1) for an annuitant, other than an annuitant  
7 referred to in paragraph (2) or (3) of this section, who  
8 is under 62 years of age on the date on which the  
9 annuitant's annuity commences shall be reduced by one-  
10 sixth of 1 percent for each full month that the annuitant  
11 is under such age on such date;

12 ``(2) for an annuitant, other than an annuitant  
13 entitled to an immediate annuity under section 8411(e) of  
14 this title and an annuitant referred to in paragraph (3)  
15 of this subsection, who is at least 55 years of age and  
16 is under 62 years of age on the date on which the  
17 annuitant's annuity commences and has not completed 30  
18 years of service shall be reduced by five-twelfths of 1  
19 percent for each full month that the annuitant is under  
20 62 years of age on such date; and

21 ``(3) for an annuitant who separated from Government  
22 employment as a military reserve technician and is under  
23 55 years of age on the date on which the annuitant's  
24 annuity commences shall be reduced by one-sixth of 1  
25 percent for each full month that the annuitant is under



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1       such age on such date.

2       “(b) Subsection (a) of this section shall not apply in  
3 the case of an annuitant who has elected to make  
4 contributions under section 8418(c) of this title, is at  
5 least 55 years of age on the date on which the annuitant's  
6 annuity commences, and has completed 30 years of service.

7       “§ 8415. Reduction for survivor annuities

8       “(a) The annuity of an annuitant computed under section  
9 8413 of this title and, if appropriate, under section 8414 of  
10 this title shall be reduced by 12 percent for each survivor  
11 annuity which is expected to be payable out of the Fund with  
12 respect to the annuitant under this chapter.

13       “(b) A reduction in the annuity of an annuitant pursuant  
14 to subsection (a) of this section shall be adjusted, as  
15 appropriate to carry out such subsection, to reflect any  
16 change in circumstances relating to entitlement to a survivor  
17 annuity, including any election made pursuant to section  
18 8434(a), 8436(b), or 8436(c) of this title.

19       “§ 8416. Methods of Payment

20       “(a)(1) The Office shall prescribe methods of payment of  
21 annuities under this subchapter.

22       “(2) The methods of payment prescribed under paragraph  
23 (1) of this subsection shall include, but not be limited to--

24               “(A) a method which provides for the payment of a  
25       monthly annuity only to an annuitant during the life of

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1 the annuitant;

2       “(B) a method which provides for the payment of a  
3 monthly annuity to an annuitant and a monthly survivor  
4 annuity equal to 50 percent of the annuitant’s annuity on  
5 the date of the annuitant’s death (computed without  
6 regard to an election under section 8417(a) of this  
7 title) to the annuitant’s surviving spouse, if any; and

8       “(C) a method which provides for the payment of a  
9 monthly annuity to an annuitant and a monthly survivor  
10 annuity equal to 50 percent of the annuitant’s annuity on  
11 the date of the annuitant’s death (computed without  
12 regard to an election under section 8417(a) of this  
13 title) to an individual who is designated by the  
14 annuitant and who has an insurable interest in the  
15 annuitant.

16       “(b)(1) Subject to paragraphs (2) and (3) of this  
17 subsection--

18       “(A) under such regulations as the Office shall  
19 prescribe, a participant or former participant who is  
20 applying for an annuity under this subchapter to commence  
21 shall elect one of the methods of payment prescribed by  
22 the Office under subsection (a) of this section; and

23       “(B) the annuity of an annuitant under this  
24 subchapter shall be paid in accordance with the method of  
25 payment elected by the annuitant pursuant to subparagraph

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1 (A) of this paragraph..

2 `` (2)(A) A participant or former participant who is  
3 married on the date on which the participant or former  
4 participant applies for an annuity under this subchapter to  
5 commence may elect a method of payment other than the method  
6 described in subsection (a)(2)(B) of this section only if the  
7 participant or former participant and the spouse of the  
8 participant or former participant jointly waive a survivor  
9 annuity under the method described in such subsection  
10 (a)(2)(B).

11 `` (B) A waiver shall not be effective for the purpose of  
12 subparagraph (A) of this paragraph unless the waiver is made  
13 in writing, is notarized, and is filed with the Office on or  
14 before the date the annuity to which the waiver relates  
15 commences.

16 `` (C) A waiver made in accordance with this paragraph  
17 shall be irrevocable.

18 `` (3) In the case of an annuitant who is subject to  
19 paragraph (2)(A) of this subsection and fails to make an  
20 election under paragraph (1) of this subsection, an annuity  
21 and survivor annuity shall be paid under the method of  
22 payment described in subsection (a)(2)(B) of this section.

23 `` (4) A participant or former participant may elect the  
24 method prescribed under subsection (a)(2)(C) of this section  
25 only if the participant or former participant is in good

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1 health on the date the election is made, as determined by the  
2 Office.

3 ``§ 8417. Level benefits option

4     ``(a) Under regulations prescribed by the Office, an  
5 annuity payable under this subchapter to a participant who is  
6 separating from Government employment entitled to an  
7 immediate annuity under subsection (a) of section 8411 of  
8 this title and is less than 62 years of age may be adjusted  
9 as provided in subsection (b) of this section, if elected by  
10 the participant on or before the date of separation.

11     ``(b)(1) Subject to paragraph (2) of this subsection, an  
12 annuity payable under this subchapter to an annuitant who has  
13 made an election authorized by subsection (a) of this section  
14 may be increased during the period the annuitant is not less  
15 than 55 years of age and is less than 62 years of age and may  
16 be reduced on and after the date the annuitant is not less  
17 than 62 years of age as appropriate to provide the annuitant  
18 an annuity under this subchapter, during each month of such  
19 period, in an amount which (as nearly as is practicable to  
20 determine) equals the total amount of the monthly benefits  
21 payable to the annuitant under this subchapter and section  
22 202(a) of the Social Security Act after such date.

23     ``(2) The actuarial present value of the benefits  
24 expected to be paid under this subchapter to the annuitant as  
25 provided in paragraph (1) of this subsection may not exceed

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1 the actuarial present value of the benefits that would be  
2 expected to be paid under this subchapter to such participant  
3 if the adjustments authorized by such paragraph were not  
4 made, as determined under regulations prescribed by the  
5 Office.

6 ``§ 8418. Contributions

7 `` (a)(1) Each agency of the Government employing a  
8 participant shall contribute to the Fund an amount equal to  
9 the sum of--

10 `` (A) the normal cost, as determined by the Office,  
11 of (i) each participant who is employed by the agency,  
12 and (ii) each disabled participant who is entitled to  
13 benefits under section 8442(a) of this title and was  
14 employed by the agency on the date the participant became  
15 disabled (computed using average pay as increased in  
16 accordance with section 8441(6) of this title); and

17 `` (B) the normal cost, as determined by the Office,  
18 of the annuity supplement under section 8413(b) of this  
19 title for each law enforcement officer, firefighter, and  
20 air traffic controller who is employed by the agency.

21 In computing normal cost, the Office shall not take into  
22 account normal cost attributable to credit for military  
23 service provided in section 8419 of this title.

24 `` (2) The contribution required by paragraph (1) of this  
25 subsection to be made by an agency shall be made from the

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1 appropriation or fund used to pay the agency's participants,  
2 or, in the case of an elected participant, from an  
3 appropriation or fund available for payment of other salaries  
4 of the office or establishment of the participant. In the  
5 case of a participant in the legislative branch who is paid  
6 by the Clerk of the House of Representatives, contributions  
7 for the benefit of such participant shall be paid from the  
8 contingent fund of the House of Representatives.

9       “(b)(1) The Office shall compute--

10           “(A) the amount of the supplemental liability of the  
11 Fund relating to participants and annuitants other than  
12 participants and annuitants referred to in subparagraph  
13 (B) of this paragraph, and

14           “(B) the amount of the supplemental liability of the  
15 Fund relating to participants and annuitants who are  
16 active or retired officers or employees of the United  
17 States Postal Service,

18 as of the close of each fiscal year beginning after September  
19 30, 1987.

20       “(2) The amounts of any supplemental liability--

21           “(A) computed pursuant to paragraph (1)(A) of this  
22 subsection with respect to participants and annuitants  
23 referred to in such paragraph (1)(A) of this subsection,  
24 and

25           “(B) computed pursuant to paragraph (1)(B) of this

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1 subsection with respect to participants and annuitants  
2 referred to in such paragraph (1)(B),  
3 shall each be amortized in thirty annual installments.  
4 `` (3) At the end of each fiscal year, the Office shall  
5 notify--  
6 `` (A) the Secretary of the Treasury of the amount of  
7 the annual installment computed under paragraph (2)(A) of  
8 this subsection for such fiscal year, and  
9 `` (B) the Postmaster General of the United States of  
10 the amount of the annual installment computed pursuant to  
11 paragraph (2)(B) of this subsection for such fiscal year.  
12 `` (4)(A) Before closing the accounts for a fiscal year,  
13 the Secretary of the Treasury shall credit the amount of the  
14 annual installment computed for such fiscal year pursuant to  
15 paragraph (2)(A) to the Fund, as a Government contribution,  
16 out of any money in the Treasury of the United States not  
17 otherwise appropriated.  
18 `` (B) Upon receiving a notice required by paragraph  
19 (3)(B) of this subsection, the United States Postal Service  
20 shall pay to the Fund the amount of the annual installment  
21 specified in the notice.  
22 `` (5) For the purpose of carrying out paragraph (1) of  
23 this subsection with respect to any fiscal year, the Office  
24 may--  
25 `` (A) require the Board of Actuaries of the Civil

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1 Service Retirement System to make actuarial  
2 determinations and valuations, make recommendations, and  
3 maintain records in the same manner as provided in  
4 section 8347(f) of this title; and

5 "(B) may use the latest actuarial determinations and  
6 valuations made by such Board of Actuaries.

7 "(c)(1) Under regulations prescribed by the Office, a  
8 participant may elect to contribute to the Fund under this  
9 subsection. An election under this paragraph may be made only  
10 within 60 days after the date the participant first becomes a  
11 participant and shall be irrevocable.

12 "(2)(A) Each agency of the Government employing a  
13 participant who elects under paragraph (1) of this subsection  
14 to contribute to the Fund shall deduct and withhold 1.3  
15 percent of the basic pay of the participant.

16 "(B) Under regulations prescribed by the Office, 1.3  
17 percent of the amount of the disability benefits payable  
18 under section 8442(a)(1) of this title to a participant who  
19 elects under paragraph (1) to contribute to the Fund shall be  
20 deducted and withheld from such amount.

21 "(3) Amounts deducted and withheld under paragraph (2)  
22 of this subsection shall be deposited in the Treasury of the  
23 United States to the credit of the Fund under such procedures  
24 as the Comptroller General of the United States may  
25 prescribe.



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1       “(4) Each participant who elects to contribute to the  
2 Fund under this subsection shall consent and agree to the  
3 deductions required by paragraph (2) of this subsection.  
4 Notwithstanding any other provision of law, payment less such  
5 deductions is a full and complete discharge and acquittance  
6 of all claims and demands for regular services performed  
7 during the period covered by the payment or for disability  
8 benefits payable under section 8442(a)(1) of this title for  
9 the period, as the case may be.

10       “(5) Section 8334(d) of this title shall apply to  
11 refunds of amounts deducted as required by paragraph (2) of  
12 this subsection.

13       “(d) Under regulations prescribed by the Office, the  
14 head of an agency may request reconsideration of the amount  
15 of the normal cost or the supplemental liability computed by  
16 the Office for such agency under subsection (a) or (b) of  
17 this section. Any such request shall be referred to the Board  
18 of Actuaries of the Civil Service Retirement System. The  
19 Board of Actuaries shall review the computations of the  
20 Office and, if considered appropriate by the Board of  
21 Actuaries, recompute such normal cost or such supplemental  
22 liability of such agency under this subsection. The  
23 determination of the Board of Actuaries shall be final.

24       “§ 8419. Funding of annuity attributable to military service

25       “(a) Except in the case of an individual making an

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1 election under section 8471(a)(1)(A) of this title, a  
2 participant's or former participant's service shall include  
3 credit for military service as provided in section 8332(c) of  
4 this title without regard to whether the participant or  
5 former participant has made a deposit covering such military  
6 service as provided in section 8334(j) of this title.

7     "(b) Before closing the accounts for a fiscal year, the  
8 Secretary of the Treasury shall reimburse the Fund from sums  
9 in the Department of Defense Military Retirement Fund  
10 (established by section 1461(a) of title 10), which are  
11 hereby made available to pay the reimbursement, for the  
12 normal cost relating to the creditable military service of  
13 employees and Members who became participants during such  
14 fiscal year, actuarially adjusted to the date of payment, as  
15 determined by the Office.

16     "(c) At the end of each fiscal year the Office shall  
17 compute the amount of the reimbursement required by  
18 subsection (b) of this section for the fiscal year and shall  
19 notify the Secretary of the Treasury of that amount.

20     "\$ 8420. Lump-sum benefits; designation of beneficiary;  
21                     order of precedence

22     "(a) Lump-sum benefits authorized by subsections (b)  
23 through (d) of this section shall be paid to the person or  
24 persons who survive a participant to whom such subsections  
25 apply and are alive on the date title to the payment arises.

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1 Entitlement to such payment shall be in the same order of  
2 precedence as is provided in section 8342(c) of this title.  
3 Payment under this subsection bars recovery by any other  
4 person.

5     “(b) If--

6         “(1) a participant who has made contributions to the  
7 Fund under section 8418(c) of this title dies--

8             “(A) without a survivor, or

9             “(B) with a survivor or survivors and the right  
10 of all survivors terminates before a claim for  
11 survivor annuity is filed, or

12         “(2) a former participant not retired dies,  
13 the portion of the lump-sum credit attributable to the  
14 contributions referred to in paragraph (1) of this subsection  
15 shall be paid as provided in subsection (a) of this section.

16     “(c) If all rights to an annuity payable from the Fund  
17 under this chapter based on the service of a deceased  
18 participant terminate before the total annuity paid equals  
19 the portion of the lump-sum credit referred to in subsection  
20 (a) of this section, the difference shall be paid as provided  
21 in subsection (a) of this section.

22     “(d) If an annuitant dies, annuity payable from the Fund  
23 which is accrued and unpaid shall be paid as provided in  
24 subsection (a) of this section.

25     “(e) Annuity payable from the Fund which is accrued and

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1 unpaid on the termination, except by death, of the annuity of  
2 an annuitant or survivor annuitant shall be paid to that  
3 individual. Annuity payable from the Fund which is accrued  
4 and unpaid on the death of a survivor annuitant shall be paid  
5 in the same order of precedence as is provided in section  
6 8342(g) of this title, and the payment bars recovery by any  
7 other person.

8           ``SUBCHAPTER III--THRIFT SAVINGS PLAN

9   ``§ 8421. Contributions

10       ``(a)(1) Each participant may contribute to the Thrift  
11 Savings Fund in any year an amount not exceeding 10 percent  
12 of the participant's annual rate of basic pay.

13       ``(2) Each participant receiving disability benefits  
14 under subchapter V of this chapter may, until becoming 62  
15 years of age (in the case of a person who is disabled within  
16 the meaning of section 8441(4)(A) of this title) or until  
17 becoming 55 years of age (in the case of a person who is  
18 disabled within the meaning of section 8441(4)(B) of this  
19 title), contribute to the Thrift Savings Fund in any year an  
20 amount not exceeding 10 percent of the amount of the former  
21 participant's disability benefits payable under such  
22 subchapter during such year.

23       ``(3)(A) Except as provided in subparagraph (B) of this  
24 paragraph, notwithstanding the limitations specified in  
25 paragraphs (1) and (2) of this subsection, if, in any period

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1 for which a participant is entitled to contribute to the  
2 Thrift Savings Fund, the participant contributes less than  
3 the maximum amount authorized by paragraph (1) or (2) of this  
4 subsection (as applicable), the participant may contribute in  
5 a later period for which the participant is entitled to  
6 contribute to such fund the amount equal to the excess of  
7 such maximum amount authorized for the earlier period over  
8 the amount contributed during the earlier period.

9     “(B) The total amount contributed under subparagraph (A)  
10 of this paragraph and paragraph (1) or (2) of this subsection  
11 in any period may not exceed the amount equal to 15 percent  
12 of the periodic equivalent of the participant's annual rate  
13 of basic pay for such period.

14     “(4) Any contribution under this subsection shall be  
15 made only pursuant to a program of regular contributions  
16 under regulations prescribed by the Executive Director.

17     “(5) At least once each year, a participant may modify  
18 the amount contributed pursuant to paragraph (1) or (2) of  
19 this subsection, as the case may be, under regulations  
20 prescribed by the Executive Director.

21     “(b)(1) The employing agency of a participant who  
22 contributes to the Thrift Savings Fund under subsection (a)  
23 of this section for any pay period, or, in the case of a  
24 disabled participant who contributes to such fund under such  
25 subsection for any disability benefits payment period, the

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1   employing agency of the participant on the date the  
2   participant became disabled (as defined in section 8441(4) of  
3   this title), shall make a contribution to the Thrift Savings  
4   Fund for the benefit of such participant or disabled  
5   participant. The employing agency's contribution shall be  
6   made at the end of such period.

7       “(2)(A) Except as provided in subparagraph (B) of this  
8   paragraph, the amount contributed under paragraph (1) of this  
9   subsection by an employing agency with respect to a  
10   contribution of a participant during any period shall be the  
11   amount equal to such portion of the amount of the  
12   participant's contribution as (i) does not exceed 5 percent  
13   of the amount of the gross pay or gross disability benefits,  
14   as the case may be, which is payable for such period, and  
15   (ii) is not contributed under subsection (a)(3) of this  
16   section.

17       “(B) In the case of a participant who has made an  
18   election to make contributions under section 8418(c) of this  
19   title, the amount contributed under paragraph (1) of this  
20   subsection by an employing agency with respect to a  
21   contribution of a participant under subsection (a) of this  
22   section during any period shall be the amount equal to 50  
23   percent of such portion of the amount of the participant's  
24   contribution as (i) does not exceed 6 percent of the amount  
25   of the gross pay or gross disability benefits, as the case

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1 may be, which is payable for such period, and (11) is not  
2 contributed under subsection (a)(3) of this section.

3       “(c) The sums required to be contributed to the Thrift  
4 Savings Fund by an employing agency under subsection (b) of  
5 this section for the benefit of a participant shall be paid  
6 from the appropriations or funds available to such agency to  
7 pay the basic pay of participants or, in the case of an  
8 elected participant, from an appropriation or fund available  
9 for payment of other salaries of the participant's office or  
10 establishment. In the case of a participant in the  
11 legislative branch who is paid by the Clerk of the House of  
12 Representatives, contributions for the benefit of such  
13 participant shall be paid from the contingent fund of the  
14 House of Representatives.

15       “(d)(1) For purposes of the Internal Revenue Code of  
16 1954--

17               “(A) the amount of any--

18                       “(i) participant contribution, or

19                       “(ii) employing agency's matching contribution,  
20 to the Thrift Savings Fund shall not be included in the  
21 gross income of the participant in the taxable year in  
22 which such contributions are made, and

23               “(B) the determination of when, and in what manner,  
24 such contributions and any income allocable to such  
25 contributions are included in the gross income of such

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1 participant shall be made in the same manner as if the  
2 Thrift Savings Fund were a trust which met the  
3 requirements of section 401(a) of such Code.

4 `` (2) Paragraph (1) shall not apply to any participant  
5 contribution described in paragraph (1)(A)(i) in any taxable  
6 year with respect to which section 402(a)(8) of such Code  
7 does not apply to contributions made to any qualified cash or  
8 deferred arrangement (within the meaning of section 401(k) of  
9 such Code).

10 `` (e) Subsection (d)(1) of this section shall not be  
11 construed to provide that any amount of the participant's pay  
12 which is contributed to the Thrift Savings Fund shall not be  
13 included in the term 'wages' for purposes of section 209 of  
14 the Social Security Act or section 3121(a) of the Internal  
15 Revenue Code of 1954.

16 `` § 8422. Vesting

17 `` (a)(1) A participant who separates from Government  
18 employment shall be entitled to an amount equal to--

19 `` (A) the total amount of the contributions made  
20 under section 8421(a) of this title plus the total amount  
21 of the net earnings in the Thrift Savings Fund, or minus  
22 the total amount of the net losses, attributable to such  
23 contributions; and

24 `` (B) the applicable percentage of the amount equal  
25 to the total amount contributed to the Thrift Savings



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1 Fund for the benefit of the participant under section  
 2 8421(b) of this title plus the total amount of the net  
 3 earnings in the Thrift Savings Fund, or minus the total  
 4 amount of the net losses, attributable to such  
 5 contributions, as provided in subsection (b) of this  
 6 section.

7 `` (2) The amount to which a participant is entitled under  
 8 paragraph (1) of this subsection shall be payable in  
 9 accordance with the election made by the participant pursuant  
 10 to section 8423 of this title.

11 `` (b)(1) For the purpose of subsection (a)(1)(B) of this  
 12 section, except as provided in paragraph (2) of this  
 13 subsection, the applicable percentage for a participant  
 14 separating from Government employment after having been a  
 15 participant in the System for a period set forth under column  
 16 I of the table below is the percentage set forth under column  
 17 II of the table below opposite the description of such  
 18 period:

Column IColumn II

Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 1 year. . . . .	0
Not less than 1 year, but less than 2 years . . . . .	20
Not less than 2 years, but less than 3 years. . . . .	40
Not less than 3 years, but less than 4 years. . . . .	60
Not less than 4 years, but less than 5 years. . . . .	80
Not less than 5 years . . . . .	100.

19 `` (2) For the purposes of subsection (a)(1)(B) of this

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1 section--

2       “(A) the percentage applicable in the case of any  
3 participant who dies while employed by the Government  
4 shall be 100 percent; and

5       “(B) in the case of a participant making  
6 contributions under section 8421(a)(2) of this title, the  
7 period for which the person has been a participant in the  
8 System shall include periods for which such contributions  
9 were made.

10       “(c) When an election is made by a participant under  
11 section 8423(c) of this title, the amount equal to the excess  
12 of--

13       “(1) the sum of--

14           “(A) the amounts contributed to the Thrift  
15 Savings Fund with respect to the participant under  
16 section 8421 of this title; and

17           “(B) the net earnings in the Thrift Savings Fund  
18 attributable to such contributions, over

19       “(2) the sum of--

20           “(A) the amount in the Thrift Savings Fund paid  
21 or reserved for payment to or with respect to the  
22 participant pursuant to section 8423(c) of this  
23 title, and

24           “(B) the amount of the administrative expenses  
25 allocated to the account of such participant under

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1           section 8428(a)(3) of this title,  
2 shall be transferred to the Treasury of the United States for  
3 credit to Miscellaneous Receipts.

4    `\$ 8423. Entitlement and elections relating to entitlement  
5        `(a)(1) Any participant who separates from Government  
6 employment entitled to an immediate annuity under section  
7 8411 of this title and, subject to paragraph (2) of this  
8 subsection, any participant who is entitled to receive  
9 disability benefits under subchapter V of this title is  
10 entitled and may elect--

11        `(A) to receive an immediate annuity from the Thrift  
12 Savings Fund;

13        `(B) to defer the commencement of the payment of an  
14 annuity from the Thrift Savings Fund until such date as  
15 the participant specifies;

16        `(C) to withdraw, in one or more payments, the  
17 amount of the balance credited to the participant's  
18 account in the Thrift Savings Fund; or

19        `(D) to transfer the amount of the balance in the  
20 account to an individual retirement account or other  
21 qualified plan (within the meaning of the Internal  
22 Revenue Code of 1954) of the participant.

23        `(2) An election may be made by a disabled participant  
24 under paragraph (1) of this subsection only within one year  
25 after the date the participant is determined to be disabled

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1 for the purposes of subchapter V of this chapter. The  
2 election is irrevocable.

3 `` (b) Any participant who separates from Government  
4 employment entitled to a deferred annuity under section 8412  
5 of this title is entitled and may elect--

6 `` (1) to receive an annuity from the Thrift Savings  
7 Fund to commence on the first date the participant is  
8 entitled to receive the deferred annuity;

9 `` (2) to defer the commencement of the payment of an  
10 annuity from the Thrift Savings Fund until a date after  
11 the first date the participant is entitled to receive the  
12 deferred annuity, as specified by the participant;

13 `` (3) to withdraw in one or more payments, on or  
14 after the first date the participant is entitled to  
15 receive the deferred annuity, the amount of the balance  
16 credited to the participant's account in the Thrift  
17 Savings Fund; or

18 `` (4) to transfer the amount of the balance in the  
19 account to an individual retirement account or other  
20 qualified plan (within the meaning of the Internal  
21 Revenue Code of 1954) of the participant.

22 `` (c) Any participant who separates from Government  
23 employment before becoming entitled to an annuity under  
24 section 8411 or 8412 of this title is entitled and may  
25 elect--

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1       “(1) to withdraw, in one or more payments, the  
2       amount computed under section 8422(a)(1) of this title,  
3       payable when the participant becomes 62 years of age; or

4       “(2) to transfer such amount to an individual  
5       retirement account or other qualified plan (within the  
6       meaning of the Internal Revenue Code of 1954) of the  
7       participant.

8       “(d)(1) Subject to paragraph (2) of this subsection, any  
9       participant making an election pursuant to subsection  
10      (a)(1)(B) or (b)(2) of this section may modify the date  
11      specified in the election or in a previous modification under  
12      this subsection.

13      “(2) Any modification of an election under paragraph (1)  
14      of this subsection may not be made on or after the date  
15      specified in the election or the latest modification made  
16      under such paragraph and may not specify a date for the  
17      commencement of annuity payments earlier than one month after  
18      the date the modification is filed with the Executive  
19      Director.

20      “§ 8424. Annuities: methods of payment; election; and  
21                      computation

22      “(a)(1) The Board shall prescribe methods of payment of  
23      annuities under this subchapter.

24      “(2) The methods of payment prescribed under paragraph  
25      (1) of this subsection shall include, but not be limited to--

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1           “(A) a method which provides for the payment of a  
2       monthly annuity only to an annuitant during the life of  
3       the annuitant;

4           “(B) a method which provides for the payment of a  
5       monthly annuity to an annuitant for the joint lives of  
6       the annuitant and the spouse of the annuitant and an  
7       appropriate monthly annuity to the one of them who  
8       survives the other of them for the life of the survivor;

9           “(C) a method described in subparagraph (A) of this  
10      paragraph which provides annual increases in the amount  
11      of the annuity payable;

12          “(D) a method described in subparagraph (B) of this  
13      paragraph which provides annual increases in the amount  
14      of the annuity payable; and

15          “(E) a method providing for the payment of a monthly  
16      annuity--

17           “(i) to the annuitant for the joint lives of the  
18      annuitant and an individual, designated by the  
19      annuitant under regulations prescribed by the  
20      Executive Director, who has an insurable interest in  
21      the annuitant; and

22           “(ii) to the one of them who survives the other  
23      of them for the life of the survivor.

24          “(b) Subject to subsection (c) of this section, under  
25      such regulations as the Executive Director shall prescribe,

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1 an annuitant electing under section 8423 of this title to  
2 receive an annuity from the Thrift Savings Fund shall elect,  
3 on or before the date on which the annuitant's annuity under  
4 this subchapter commences, one of the methods of payment  
5 prescribed by the Board under subsection (a) of this section.

6     “(c) The amount of an annuity payable under this  
7 subchapter pursuant to the method elected under subsection  
8 (b) of this section shall be determined on an actuarial basis  
9 under regulations prescribed by the Executive Director.

10    “§ 8425. Administrative provisions relating to payments and  
11                   elections

12     “(a) The Executive Director shall make or provide for  
13 payments and transfers in accordance with an election of a  
14 participant under section 8423 or 8424(b) of this title.

15     “(b) Any election under section 8423 or 8424(b) of this  
16 title shall be in writing and shall be filed with the  
17 Executive Director in accordance with regulations prescribed  
18 by the Executive Director.

19     “(c) Notwithstanding any other provision of this  
20 section, an election or modification of an election under any  
21 provision of this subchapter shall not be effective if the  
22 election or modification would result in a violation of the  
23 terms of an applicable court decree of divorce, annulment, or  
24 legal separation, or the terms of any court order or court-  
25 approved property settlement agreement incident to a court

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1 decree of divorce, annulment, or legal separation, as  
2 determined by the Executive Director.

3 ``§ 8426. Thrift Savings Fund

4 `` (a) There is established in the Treasury of the United  
5 States a Thrift Savings Fund.

6 `` (b) The Thrift Savings Fund consists of the sum of all  
7 amounts contributed under section 8421 of this title and all  
8 amounts deposited under section 8499(b) of this title,  
9 increased by the total net earnings from investments of sums  
10 in the Thrift Savings Fund or reduced by the total net losses  
11 from investments of the Thrift Savings Fund, and reduced by  
12 the total amount of payments made from the Thrift Savings  
13 Fund and the total amount of the outstanding loans made from  
14 the Thrift Savings Fund.

15 `` (c) The sums in the Thrift Savings Fund are  
16 appropriated and shall remain available without fiscal year  
17 limitation--

18 `` (1) to invest under section 8427 of this title;

19 `` (2) to pay benefits under this subchapter;

20 `` (3) to pay the administrative expenses of the  
21 Federal Retirement Thrift Investment Management System  
22 prescribed in subchapter VIII of this chapter;

23 `` (4) to make loans to participants as authorized  
24 under subsection (e) of this section; and

25 `` (5) to purchase insurance as provided in section



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1 8499(b)(2) of this title.

2 ''(d)(1) Except as provided in paragraph (2) of this  
3 subsection or section 8465(b) or 8467 of this title, and  
4 except as otherwise provided in a Federal law, sums in the  
5 Thrift Savings Fund are not subject to execution, levy,  
6 attachment, garnishment, or other legal process.

7 ''(2) Moneys due or payable from the Thrift Savings Fund  
8 to any individual and, in the case of an individual who is a  
9 participant, moneys which the individual would be entitled to  
10 receive under section 8422 of this title upon separation from  
11 Government employment shall be subject to legal process for  
12 the enforcement of the individual's legal obligations to  
13 provide child support or make alimony payments as provided in  
14 section 459 of the Social Security Act (42 U.S.C. 659) or to  
15 pay any indebtedness of the individual to the United States.

16 ''(e) The Board shall establish a program to make loans  
17 from the Thrift Savings Fund to a participant in case of  
18 financial hardship. The Executive Director shall prescribe  
19 regulations to carry out such program. Any such loan shall be  
20 made only out of sums contributed to the Thrift Savings Fund  
21 by the participant and net earnings attributable to such  
22 sums.

23 ''(f) The sums in the Thrift Savings Fund shall not be  
24 appropriated and may not be used for any purpose other than  
25 the purposes specified in this section.

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1    'S 8427. Investment of Thrift Savings Fund

2        '(a) For the purposes of this section--

3            '(1) the term 'Common Stock Index Investment Fund'  
4 means the Common Stock Investment Fund established under  
5 subsection (b)(1)(C) of this section;

6            '(2) the term 'equity capital' means common and  
7 preferred stock, surplus, undivided profits, contingency  
8 reserves, and other capital reserves;

9            '(3) the term 'Fixed Income Investment Fund' means  
10 the Fixed Income Investment Fund established under  
11 subsection (b)(1)(B) of this section;

12            '(4) the term 'Government Securities Investment  
13 Fund' means the Government Securities Investment Fund  
14 established under subsection (b)(1)(A) of this section;

15            '(5) the term 'net worth' means capital, paid-in and  
16 contributed surplus, unassigned surplus, contingency  
17 reserves, group contingency reserves, and special  
18 reserves;

19            '(6) the term 'plan' means an employee benefit plan,  
20 as defined in section 3(3) of the Employee Retirement  
21 Income Security Act of 1974 (29 U.S.C. 1002(3));

22            '(7) the term 'qualified professional asset manager'  
23 means--

24                '(A) a bank, as defined in section 202(a)(2) of  
25 the Investment Advisers Act of 1940 (15 U.S.C. 80b-

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1           2(a)(2)) which--

2                “(1) has the power to manage, acquire, or  
3           dispose of assets of a plan; and

4                “(11) has, as of the last day of its latest  
5           fiscal year ending before the date of a  
6           determination for the purpose of this clause,  
7           equity capital in excess of \$1,000,000;

8                “(B) a savings and loan association, the  
9           accounts of which are insured by the Federal Savings  
10          and Loan Insurance Corporation, which--

11               “(1) has applied for and been granted trust  
12           powers to manage, acquire, or dispose of assets  
13           of a plan by a State or Government authority  
14           having supervision over savings and loan  
15           associations; and

16               “(11) has, as of the last day of its latest  
17           fiscal year ending before the date of a  
18           determination for the purpose of this clause,  
19           equity capital or net worth in excess of  
20           \$1,000,000;

21               “(C) an insurance company which--

22                “(1) is qualified under the laws of more  
23           than one State to manage, acquire, or dispose of  
24           any assets of a plan;

25                “(11) has, as of the last day of its latest

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1 fiscal year ending before the date of a  
2 determination for the purpose of this clause, net  
3 worth in excess of \$1,000,000; and

4 ``(iii) is subject to supervision and  
5 examination by a State authority having  
6 supervision over insurance companies; or

7 ``(D) an investment adviser registered under  
8 section 203 of the Investment Advisers Act of 1940  
9 (15 U.S.C. 80b-3) if the investment adviser has, on  
10 the the last day of its latest fiscal year ending  
11 before the date of a determination for the purpose of  
12 this subparagraph, total client assets under its  
13 management and control in excess of \$50,000,000,  
14 and--

15 ``(i) the investment adviser has, on such  
16 day, shareholder's or partner's equity in excess  
17 of \$750,000; or

18 ``(ii) payment of all of the investment  
19 adviser's liabilities, including any liabilities  
20 which may arise by reason of a breach or  
21 violation of a duty described in section 8497 of  
22 this title, is unconditionally guaranteed by--

23 ``(I) a person who directly or  
24 indirectly, through one or more  
25 intermediaries, controls, is controlled by,

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1 or is under common control with the  
2 investment adviser and who has, on the last  
3 day of the person's latest fiscal year ending  
4 before the date of a determination for the  
5 purpose of this clause, shareholder's or  
6 partner's equity in an amount which, when  
7 added to the amount of the shareholder's or  
8 partner's equity of the investment adviser on  
9 such day, exceeds \$750,000;

10 ``(II) a qualified professional asset  
11 manager described in subparagraph (A), (B),  
12 or (C) of this paragraph; or

13 ``(III) a broker or dealer registered  
14 under section 15 of the Securities Exchange  
15 Act of 1934 (15 U.S.C. 78o) that has, on the  
16 last day of the broker's or dealer's latest  
17 fiscal year ending before the date of a  
18 determination for the purpose of this clause,  
19 net worth in excess of \$750,000; and

20 ``(8) the term 'shareholder's or partner's equity',  
21 when used in paragraph (7)(D) of this subsection with  
22 respect to an investment adviser or a person who is  
23 affiliated with the investment adviser in a manner  
24 described in clause (ii)(I) of such paragraph (7)(D),  
25 means the equity shown in the most recent balance sheet

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1 prepared for such investment adviser or affiliated  
2 person, in accordance with generally accepted accounting  
3 principles, within 2 years before the date on which the  
4 investment adviser's status as a qualified professional  
5 asset manager is determined for the purposes of this  
6 section.

7 `` (b) (1) The Board shall establish--

8 `` (A) a Government Securities Investment Fund under  
9 which sums in the Thrift Savings Fund are invested in  
10 securities of the United States Government issued as  
11 provided in subsection (g) of this section;

12 `` (B) a Fixed Income Investment Fund under which sums  
13 in the Thrift Savings Fund are invested in insurance  
14 contracts, certificates of deposits, or other instruments  
15 or obligations which (i) are issued or selected by  
16 qualified professional asset managers, and (ii) return  
17 the amount invested and pay interest, at a specified rate  
18 or rates, on that amount during a specified period of  
19 time;

20 `` (C) a Common Stock Index Investment Fund as  
21 provided in paragraph (2) of this subsection; and

22 `` (D) such other investment funds as the Board  
23 determines to be appropriate for the purposes of this  
24 subchapter.

25 `` (2) (A) The Board shall define an index which--

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1           “(1) consists of (I) all of the common stocks that  
2       are publicly listed and traded on one or more national  
3       securities exchanges, and (II) over-the-counter  
4       securities quoted publicly on the National Association of  
5       Securities Dealers Automated Quotations system or on  
6       another automated basis, or

7           “(11) is a commonly recognized index comprised of  
8       common stock the aggregate market value of which is as  
9       complete a representation of the United States equity  
10      markets as is reasonably practicable.

11          “(B) Except as provided in subparagraph (C) of this  
12      paragraph, the Common Stock Index Investment Fund shall be  
13      invested in a portfolio designed to replicate the performance  
14      of the index defined under subparagraph (A) of this  
15      paragraph. The portfolio shall be designed such that--

16           “(1) to the extent practicable, the percentage of  
17      the Common Stock Index Investment Fund that is invested  
18      in each stock is the same as the percentage determined by  
19      dividing the aggregate market value of all shares of that  
20      stock by the aggregate market value of all shares of all  
21      stock included in such index, or

22           “(11) a sampling of stocks included in the index is  
23      used in the construction of an index fund that minimizes  
24      differences between the net portfolio return and the  
25      total index return.

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1       ``(C) The Employee Advisory Committee may, by resolution,  
2       exclude certain stocks from the Common Stock Index Investment  
3       Fund and from the index defined in accordance with  
4       subparagraph (A) of this paragraph, notwithstanding the  
5       standards for investment decisionmaking set out in section  
6       8495 of this title.

7       ``(c)(1) The Executive Director shall invest in the  
8       Government Securities Investment Fund the sums which are in  
9       the Thrift Savings Fund, are available for investment, and  
10      are not to be invested in an investment fund referred to in  
11      subsection (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this section  
12      pursuant to an election made under subsection (d) of this  
13      section.

14      ``(2) Except as provided in subsection (e) of this  
15      section, the Executive Director shall invest sums available  
16      in the Thrift Savings Fund for investment as provided in  
17      elections made under subsection (d) of this section.

18      ``(d)(1) Except as provided in subsection (e) of this  
19      section, at least once each year, a participant or former  
20      participant may elect the investment funds referred to in  
21      subsection (b) of this section into which the sums in the  
22      Thrift Savings Fund credited to the account of such  
23      participant or former participant are to be invested or  
24      reinvested.

25      ``(2) The election may be made by a participant or former



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1 participant under paragraph (1) of this subsection only in  
 2 accordance with regulations prescribed by the Executive  
 3 Director and within such period after the date the  
 4 participant's or former participant's annual statement is  
 5 transmitted to the participant or former participant pursuant  
 6 to section 8428(b) of this title as the Executive Director  
 7 shall prescribe in such regulations.

8       “(e)(1)(A) The Executive Director shall invest a  
 9 percentage of the total amount that--

10           “(1) is contributed to the Thrift Savings Fund by a  
 11 participant under section 8421(a) of this title during a  
 12 year described under column I of the first table of  
 13 minimum Government securities investments set out in  
 14 subparagraph (B) of this paragraph, and

15           “(11) is available for investment,  
 16 in the Government Securities Investment Fund as provided  
 17 under column II of the table opposite the description of such  
 18 year.

19       “(B) For the purposes of subparagraph (A) of this  
 20 paragraph, the first table of minimum Government securities  
 21 investments is as follows:

<u>Column I</u>	<u>Column II</u>
Year:	Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities

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## Investment Fund:

1987	100
1988	80
1989	60
1990	40
1991	20.

1       “(2)(A) The Executive Director shall invest a percentage  
2 of the total amount that--

3       “(1) is contributed to the Thrift Savings Fund by  
4 the Government for the benefit of a participant pursuant  
5 to section 8421(b) of this title during a year described  
6 under column I of the second table of minimum Government  
7 securities investments set out in subparagraph (B) of  
8 this paragraph, and

9       “(11) is available for investment,  
10 in the Government Securities Investment Fund as provided  
11 under column II of the table opposite the description of such  
12 year.

13       “(B) For the purposes of subparagraph (A) of this  
14 paragraph, the second table of minimum Government securities  
15 investments is as follows:

“ <u>Column I</u>	<u>Column II</u>
Year:	Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987-1992	100
1993	80

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1994	60
1995	40
1996	20

1       “(3) All sums credited to the Thrift Savings Fund  
2 pursuant to section 8473(b) of this title shall be invested  
3 in the Government Securities Investment Fund.

4       “(4) The sums which are invested in the Government  
5 Securities Investment Fund as required by this subsection and  
6 are returned to the Thrift Savings Fund after maturity of the  
7 securities purchased with such sums, and the amounts earned  
8 on the investment of such sums, shall be reinvested in the  
9 Government Securities Investment Fund.

10       “(f) The Secretary of the Treasury shall issue notes  
11 under section 3103 of title 31 as appropriate to meet the  
12 investment needs of the Thrift Savings Fund under this  
13 section. The notes shall have a 4-year maturity, shall be  
14 redeemable at par, and shall bear interest at a rate equal to  
15 the average market yield of all 4-year notes which were  
16 issued in the latest issue of 4-year notes then forming a  
17 part of the public debt of the United States. If the average  
18 market yield is not a multiple of  $\frac{1}{8}$  of 1 percent, the rate  
19 of interest on the obligations shall be the multiple of  $\frac{1}{8}$   
20 of 1 percent nearest the average market yield.

21       “§ 8428. Accounting

22       “(a)(1) The Executive Director shall establish and  
23 maintain an account for each participant making contributions

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1 under section 8421(a) of this title.

2       “(2) The balance in the account of a participant or  
3 former participant at any time is the excess of--

4           “(A) the sum of--

5               “(i) all contributions made to the Thrift  
6 Savings Fund by the participant or former participant  
7 under section 8421(a) of this title;

8               “(ii) all contributions made to such fund for  
9 the benefit of the participant or former participant  
10 under section 8421(b) of this title;

11               “(iii) the amounts transferred to such fund with  
12 respect to the participant or former participant  
13 under section 8473(b) of this title; and

14               “(iv) the total amount of the allocations made  
15 to and reductions made in the account pursuant to  
16 paragraph (3) of this section, over

17           “(B) the amounts paid out of the Thrift Savings Fund  
18 with respect to such participant or former participant  
19 under this subchapter and subchapter IV of this title.

20       “(3) Pursuant to regulations prescribed by the Executive  
21 Director, the Executive Director shall allocate to the  
22 account of each participant or former participant an amount  
23 equal to a pro rata share of the net earnings and net losses  
24 from each investment of sums in the Thrift Savings Fund  
25 attributable to sums credited to the account of such

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1 participant, reduced by an appropriate share of the  
2 administrative expenses of the Federal Retirement Thrift  
3 Investment Management System prescribed in subchapter VIII of  
4 this chapter, as determined by the Executive Director.

5     “(b) The Executive Director shall provide each  
6 participant and former participant an annual statement of the  
7 balance in the participant's or former participant's account.

8     “(c)(1) For the purposes of this subsection, the term  
9 ‘qualified public accountant’ shall have the same meaning as  
10 provided in section 103(a)(3)(D) of the Employee Retirement  
11 Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).

12     “(2) The Executive Director shall annually engage, on  
13 behalf of all participants, an independent qualified public  
14 accountant, who shall conduct an examination of any accounts  
15 established under subsection (a) of this section and of other  
16 books and records maintained in the administration of this  
17 subchapter as the accountant considers necessary to enable  
18 the accountant to make the determination required by  
19 paragraph (3) of this subsection. The examination shall be  
20 conducted in accordance with generally accepted auditing  
21 standards and shall involve such tests of the accounts,  
22 books, and records as the independent qualified public  
23 accountant considers necessary.

24     “(3) The independent qualified public accountant  
25 conducting an examination under paragraph (2) of this

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1 subsection shall determine whether the accounts, books, and  
2 records referred to in such paragraph have been maintained in  
3 conformity with generally accepted accounting principles  
4 applied on a basis consistent with the application of such  
5 principles during the examination conducted under such  
6 paragraph during the preceding year. The accountant shall  
7 transmit to the Board and the Comptroller General of the  
8 United States a report on his examination, including his  
9 determination under this paragraph.

10       “(4) In making a determination under paragraph (3) of  
11 this subsection, the accountant may rely on the correctness  
12 of any actuarial matter certified by an enrolled actuary, if  
13 the accountant states his reliance in the report transmitted  
14 to the Board under such paragraph.

15               “SUBCHAPTER IV--SURVIVOR BENEFITS

16       “§ 8431. Basic plan spousal benefits relating to the death  
17               of a participant or former participant other  
18               than an annuitant

19       “(a)(1) If a participant dies after performing 5 or more  
20 years of service and before separating from Government  
21 employment and the participant has satisfied the age and  
22 service requirements for retirement entitled to an immediate  
23 annuity under section 8411 of this title before the date of  
24 death, the surviving spouse of a deceased participant shall  
25 be entitled to a survivor annuity payable out of the Fund.

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1       “(2) If a participant dies after performing 5 or more  
2 years of service and before separating from Government  
3 employment and the participant has not satisfied the age and  
4 service requirements for retirement entitled to an immediate  
5 annuity under section 8411 of this title before the date of  
6 death, the surviving spouse of a deceased participant shall  
7 be entitled to a survivor annuity payable out of the Fund.  
8 The survivor annuity shall commence on the first date the  
9 participant could have retired entitled to an immediate  
10 annuity under section 8411 of this title if the participant  
11 had continued to live and had continued to be a participant  
12 until such date.

13       “(3) The amount of the survivor annuity payable under  
14 paragraph (1) or (2) of this subsection to the surviving  
15 spouse of a deceased participant shall be equal to 50 percent  
16 of the annuity computed with respect to the deceased  
17 participant pursuant to sections 8413, 8414, and 8415 of this  
18 title as if the participant had retired from Government  
19 employment on the day before the date of death and had  
20 elected the method of payment described in section  
21 8416(a)(2)(B) of this title.

22       “(b)(1) If a former participant dies entitled to a  
23 deferred annuity under section 8412 of this title before  
24 payment of an annuity under subchapter II of this chapter to  
25 the former participant commences, the surviving spouse of the

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1 deceased former participant is entitled to a survivor annuity  
2 payable out of the Fund.

3     “(2) The amount of the survivor annuity payable under  
4 paragraph (1) of this subsection to the surviving spouse of a  
5 deceased former participant shall be equal to 50 percent of  
6 the annuity which the deceased former participant would have  
7 been entitled to receive under such section if the deceased  
8 former participant--

9         “(A) had been 55 years of age on the day before the  
10 date of death, or

11         “(B) in the case of a former participant who was 55  
12 years of age or older on such day and was not receiving  
13 such annuity, had commenced to receive such deferred  
14 annuity on such day,

15 computed under sections 8413, 8414, and 8415 of this title.

16     “§ 8432. Basic plan spousal and insurable interest benefits  
17 relating to the death of an annuitant

18     ““A survivor annuity shall be paid out of the Fund with  
19 respect to a deceased annuitant--

20         “(1) in accordance with the method of payment  
21 elected by the annuitant under section 8416 of this  
22 title;

23         “(2) as provided in subsection (b)(3) of such  
24 section; or

25         “(3) in accordance with an election made by the



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1 annuitant under section 8434(a) or 8436(c) of this title.  
2 ``§ 8433. Survivor benefits under the thrift savings plan  
3 ``(a) A survivor annuity shall be paid out of the Thrift  
4 Savings Fund with respect to a deceased annuitant as provided  
5 under a method of payment of annuities elected by the  
6 annuitant under section 8424(b) of this title or in  
7 accordance with an election made by the annuitant under  
8 section 8434(a) or 8436(c) of this title. The amount of the  
9 survivor annuity shall be determined on an actuarial basis  
10 under regulations prescribed by the Executive Director.  
11 ``(b)(1) Except as provided in subsection (d) of this  
12 section, the amount in the account established and maintained  
13 for a deceased participant or deceased former participant  
14 (other than a deceased annuitant) pursuant to section 8428(a)  
15 of this title, determined on the date of an election under  
16 subsection (c) of this section, shall, subject to the limits  
17 of the entitlement set out in section 8422(a)(1) of this  
18 title (without regard to section 8422(a)(2) of this title),  
19 be paid as provided in paragraph (2) of this subsection.  
20 ``(2)(A) Except as provided in subparagraph (B) of this  
21 paragraph, payment under paragraph (1) of this subsection  
22 shall be made to the surviving spouse of the deceased  
23 participant or former participant pursuant to the method  
24 elected under subsection (c) of this section.  
25 ``(B) If a deceased participant or former participant

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1 referred to in paragraph (1) of this subsection is not  
2 survived by a spouse, payment under such paragraph shall be  
3 made to--

4       “(1) any individual who has an insurable interest in  
5 the participant or former participant and has been  
6 designated by the participant for the purpose of such  
7 paragraph under regulations prescribed by the Executive  
8 Director; or

9       “(11) if the deceased participant or former  
10 participant did not make a designation as provided in  
11 clause (i) of this subparagraph, to the estate of the  
12 deceased participant or former participant.

13       “(c) A surviving spouse or another individual who is  
14 entitled to payment of benefits under subsection (b) of this  
15 section may elect--

16       “(1) to receive an annuity from the Fund payable  
17 monthly for life;

18       “(2) to transfer the amount referred to in such  
19 subsection to an individual retirement account (within  
20 the meaning of the Internal Revenue Code of 1954) of the  
21 surviving spouse; or

22       “(3) to withdraw such amount in one or more  
23 payments.

24       “(d) Any amount required for the payment of a survivor  
25 annuity with respect to a deceased participant or deceased

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1 former participant out of the Thrift Savings Fund pursuant to  
2 section 8435 of this title shall be deducted and withheld  
3 from a distribution made with respect to the deceased  
4 participant or deceased former participant pursuant to  
5 subsection (b) of this section. The amount deducted and  
6 withheld shall be maintained in the Thrift Savings Fund until  
7 expended in payment of the survivor annuity or until the  
8 survivor annuity terminates. Any sums remaining from the  
9 amount deducted and withheld after the termination of the  
10 survivor annuity, plus net earnings realized from investment  
11 of such amount, shall be distributed as provided in  
12 subsection (b) of this section, as the case may be.

13 ``§ 8434. Basic and thrift savings plan survivor benefits  
14 relating to marriage after commencement of an  
15 annuity

16 ``(a) If an annuitant--

17 ``(1) is married on the date that the annuitant  
18 applies for payment of an annuity under subchapter II of  
19 this chapter to commence, the marriage terminates, and  
20 the annuitant remarries, or

21 ``(2) is not married on such date and marries after  
22 such date,

23 the annuitant may irrevocably elect during the later marriage  
24 to provide an annuity for such annuitant's spouse under the  
25 method of payment described in section 8416(a)(2)(B) or

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1 subparagraph (B) or (D) of section 8424(a)(2) of this title.  
2 An election under this subparagraph shall be made in a signed  
3 writing received by the Office within 2 years after the date  
4 of the remarriage or marriage, as the case may be.

5     “(b) An election under subsection (a) of this section  
6 shall be effective the first day of the second month  
7 beginning after the election is received by the Office (in  
8 the case of a survivor annuity payable out of the Fund) or  
9 the Executive Director (in the case of a survivor annuity  
10 payable out of the Thrift Savings Fund), but not earlier than  
11 9 months after the date of the remarriage referred to in  
12 paragraph (1) of such subsection or the date of the marriage  
13 referred to in paragraph (2) of such subsection, as the case  
14 may be.

15     “(c) An annuitant making an election under subsection  
16 (a) of this section to provide a survivor annuity payable out  
17 of the Fund shall, within 2 years after the date of the  
18 remarriage referred to in paragraph (1) of such subsection or  
19 the date of the marriage referred to in paragraph (2) of such  
20 subsection, as the case may be, deposit in the Fund an amount  
21 determined by the Office, as nearly as may be  
22 administratively feasible, to reflect the amount by which the  
23 annuity of such annuitant would have been reduced if the  
24 election had been in effect since--

25     “(1) the date that payment of an annuity to the

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1 annuitant under subchapter II of this chapter commenced,  
2 or  
3       “(2) If the annuity had previously been reduced to  
4 provide for a survivor annuity under section 8432 of this  
5 title, the date the previous reduction in such  
6 annuitant's annuity was terminated under section 8415(b)  
7 of this title,  
8 plus interest computed as provided in section 8438(a) of this  
9 title.

10       “(d) Notwithstanding any other provision of this  
11 section, an election under this section may not be made for  
12 the purpose of providing a survivor annuity payable from the  
13 Fund to a spouse of an annuitant by remarriage if--

14       “(A) such spouse was married to the annuitant on the  
15 date that payment of an annuity to the annuitant under  
16 subchapter II of this chapter commenced; and

17       “(B) rights to survivor benefits for such spouse  
18 based on marriage to such annuitant were then waived  
19 under section 8416(b)(2) of this title.

20       “§ 8435. Survivor benefits for eligible former spouses:  
21               entitlement; amount

22       “(a) Subject to subsections (b) through (g) of this  
23 section, an eligible former spouse of a deceased participant  
24 or deceased former participant who dies entitled to an  
25 immediate or deferred annuity under section 8411 or 8412 of

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1 this title is entitled to a survivor annuity under this  
2 section if and to the extent that--

3        “(1) an election under section 8436 of this title,

4        “(2) any court decree dissolving or annulling the  
5 marriage of the participant or former participant and the  
6 eligible former spouse, or

7        “(3) any court order or court-approved property  
8 settlement agreement incident to such decree,  
9 expressly provides for such survivor annuity.

10       “(b)(1) The amount of the survivor annuity payable from  
11 the Fund to an eligible former spouse of a deceased  
12 participant or deceased former participant under this section  
13 may not exceed the excess, if any, of--

14        “(A) the amount applicable in the case of such  
15 eligible former spouse, as determined under paragraph (2)  
16 of this subsection, over

17        “(B) the amount of all other survivor annuities  
18 payable from the Fund under this section to other  
19 eligible former spouses of the participant or former  
20 participant based on the order of precedence provided in  
21 subsection (d) of this section.

22       “(2) For the purposes of paragraph (1)(A) of this  
23 subsection, the amount applicable in the case of an eligible  
24 former spouse of a deceased participant or deceased former  
25 participant is the amount--

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1           “(A) which is equal to 50 percent of the amount of  
2     the deceased former participant’s annuity payable to the  
3     former participant on the day before the date of the  
4     former participant’s death, if the deceased former  
5     participant was an annuitant on such day;

6           “(B) which would be applicable under paragraph (3)  
7     of section 8431(a) of this title in the case of a  
8     surviving spouse of the deceased, if the deceased was a  
9     participant described in paragraph (1) or (2) of such  
10    section 8431(a); or

11          “(C) which would be applicable under paragraph (2)  
12    of section 8431(b) of this title in the case of a  
13    surviving spouse of the deceased, if the deceased was a  
14    former participant described in paragraph (1) of such  
15    section 8431(b).

16          “(c) The total amount of all survivor annuities payable  
17    from the Thrift Savings Fund to eligible former spouses of a  
18    deceased participant or deceased former participant pursuant  
19    to this section may not exceed the amount of the survivor  
20    annuities that would be payable to the former spouses out of  
21    100 percent of the balance in the account of the deceased  
22    participant or deceased former participant, plus anticipated  
23    net earnings from investments allocable to such account,  
24    determined on an actuarial basis in accordance with  
25    regulations prescribed by the Executive Director.

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1       “(d) If more than one eligible former spouse is entitled  
2 to a survivor annuity pursuant to this section, the amount of  
3 each such survivor annuity shall be limited appropriately to  
4 carry out subsection (b) or (c) of this section on a first-  
5 come, first-served basis determined by reference to the date  
6 an election is properly made pursuant to section 8436 of this  
7 title or the date on which the court decree, order, or court-  
8 approved agreement applicable to the entitlement was issued,  
9 as the case may be.

10       “(e) The commencement and termination dates of a  
11 survivor annuity payable under this section to an eligible  
12 former spouse of a deceased participant or deceased former  
13 participant shall be the commencement and termination dates  
14 determined under the provisions of the applicable court  
15 order, decree, or agreement or an election, as the case may  
16 be (if provided in such order, decree, agreement, or  
17 election), except that any such survivor annuity--

18               “(1) shall not commence before--

19                       “(A) the day after the participant or former  
20 participant dies, or

21                       “(B) the first day of the second month beginning  
22 after the date on which the Office receives written  
23 notice of the court order, decree, or agreement or  
24 the election, as the case may be, together with such  
25 additional information or documentation as the Office



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1 requires,  
2 whichever is later, and  
3 ``(2) shall terminate not later than the date  
4 provided in section 8464(b)(2) of this title.  
5 ``(f) For the purposes of this section, a court decree,  
6 order, or agreement or an election referred to in subsection  
7 (a) of this section shall not be effective, in the case of a  
8 survivor annuity payable out of the Fund to a former spouse,  
9 to the extent that the election is inconsistent with any  
10 joint waiver previously executed with respect to such former  
11 spouse under section 8416(b)(2) of this title.  
12 ``(g) Any payment under this section to a person bars  
13 recovery by any other person.  
14 ``§ 8436. Survivor benefits for former spouses: elections,  
15 deposits and collections, and administrative  
16 provisions  
17 ``(a)(1) If an annuitant has an eligible former spouse on  
18 the date that the annuitant applies for payment of an annuity  
19 to the annuitant under subchapter II of this chapter to  
20 commence, the annuitant may elect, under procedures  
21 prescribed by the Office, to provide a survivor annuity for  
22 such former spouse under section 8435 of this title. An  
23 election under this paragraph shall be made on such date or,  
24 if later, within 2 years after the date on which the marriage  
25 of the former spouse to the annuitant was dissolved or

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1 annulled. The election shall specify the amount of the  
2 survivor annuity to be provided under this paragraph.

3       “(2) If an annuitant makes an election under paragraph  
4 (1) of this subsection to provide a survivor annuity payable  
5 out of the Fund and the annuitant makes the election during  
6 the 2-year period referred to in such paragraph, the  
7 annuitant shall deposit in the Fund, within such period, an  
8 amount determined by the Office, as nearly as may be  
9 administratively feasible, to reflect the amount by which the  
10 annuity of such an annuitant would have been reduced if the  
11 election had been continuously in effect since the date the  
12 annuity commenced, plus interest computed as provided in  
13 section 8438(a) of this title.

14       “(3) An election under paragraph (1) of this  
15 subsection--

16       “(A) shall not be effective to the extent that it  
17 conflicts with--

18       “(i) any court decree or order referred to in  
19 subsection (a) of section 8435 of this title, or

20       “(ii) any agreement referred to in such  
21 subsection,

22 which is received by the Office before the date on which  
23 such election is made;

24       “(B) shall not be effective to the extent that the  
25 amount of the annuity specified in the election exceeds--

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1           “(1) in the case of a survivor annuity payable  
2           from the Fund, the amount determined pursuant to  
3           subsections (b)(2) and (d) of section 8435 of this  
4           title; or

5           “(11) in the case of a survivor annuity payable  
6           from the Thrift Savings Fund, the amount determined  
7           pursuant to subsections (c) and (d) of section 8435  
8           of this title; and

9           “(C) shall not be effective, in the case of an  
10          annuitant who is married on the date of the election,  
11          unless the election is made with the written consent of  
12          the annuitant's spouse.

13          “(b) An annuitant who has elected to provide a survivor  
14          annuity for an eligible former spouse pursuant to subsection  
15          (a) of this section or who has an eligible former spouse  
16          entitled to receive a survivor annuity with respect to the  
17          annuitant under paragraph (2) or (3) of section 8435(a) of  
18          this title may make an election to provide or increase a  
19          survivor annuity for any other eligible former spouse of the  
20          annuitant within the same period that, and subject to the  
21          same conditions under which, an election could be made under  
22          subsection (c) of this section for a spouse of the annuitant  
23          (subject to the provisions of subsection (a)(3)(C) of this  
24          section relating to the consent of a spouse, if the annuitant  
25          is then married). The opportunity to make an election under

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1 the preceding sentence is in addition to any opportunity  
2 otherwise provided under this section.

3     “(c)(1) If the entitlement of an eligible former spouse  
4 of an annuitant to a survivor annuity under this subchapter  
5 is terminated or reduced by reason of the remarriage or death  
6 of the former spouse, the annuitant may elect, in a signed  
7 writing received by the Office (in the case of a survivor  
8 annuity to be paid out of the Fund) or the Executive Director  
9 (in the case of a survivor annuity to be paid out of the  
10 Thrift Savings Fund) within 2 years after the former spouse's  
11 date of death or remarriage, as the case may be, to provide a  
12 survivor annuity to the annuitant's spouse.

13     “(2) A survivor annuity elected under paragraph (1) of  
14 this subsection shall be paid under the method described in  
15 section 8416(a)(2)(B) of this title (in the case of a  
16 terminated or reduced entitlement payable out of the Fund) or  
17 in subparagraph (B) or (D) of section 8424(a)(2) of this  
18 title (in the case of a terminated or reduced entitlement  
19 payable from the Thrift Savings Fund).

20     “(d) If the entitlement of an annuitant's spouse to a  
21 survivor annuity under this subchapter is terminated by  
22 reason of the death of the spouse, the annuitant may elect,  
23 in a signed writing received by the Office (in the case of a  
24 survivor annuity to be paid out of the Fund) or the Executive  
25 Director (in the case of a survivor annuity to be paid out of

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1 the Thrift Savings Fund) within 2 years after the spouse's  
2 date of death to provide or increase a survivor annuity for a  
3 former spouse of the annuitant.

4     “(e) The requirement that the spouse of an annuitant  
5 waive a right to a survivor annuity under this subchapter as  
6 a condition for an election authorized by subsection  
7 (a)(3)(C) of this section shall not apply if the participant  
8 or annuitant establishes to the satisfaction of the Office  
9 that--

10         “(1) the spouse's whereabouts cannot reasonably be  
11 determined; or

12         “(2) due to exceptional circumstances, it would be  
13 inappropriate to require the participant or annuitant to  
14 obtain the spouse's consent.

15     “§ 8437. Termination of entitlement

16     “An election of an annuitant to provide a survivor  
17 annuity to the annuitant's spouse under this subchapter  
18 terminates on the first day of the first month beginning  
19 after--

20         “(1) the date of the death of the spouse; or

21         “(2) the date of the dissolution of the spouse's  
22 marriage to the annuitant.

23     “§ 8438. Deposits to the Fund

24     “(a) For the purposes of section 8434(c) or 8436(a)(2)  
25 of this title, the annual rate of interest for each year

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1 during which an annuity would have been reduced if the  
2 election referred to in such section had been in effect on  
3 and after the applicable date referred to in such section  
4 shall be the percent determined for such year under section  
5 8334(e) of this title.

6 `` (b) If an annuitant does not make a deposit required by  
7 section 8434(c) or 8436(a)(2) of this title, the Office shall  
8 collect such amount by offset against the annuitant's annuity  
9 payable from the Fund, up to a maximum of 25 percent of the  
10 net annuity otherwise payable to the annuitant. The annuitant  
11 is deemed to consent to such offset.

12 `` (c) The Office may extend the time limit for making a  
13 deposit required by section 8434(c) or 8436(a)(2) of this  
14 title in any case for good cause shown.

15 ``SUBCHAPTER V--DISABILITY BENEFITS

16 ``§ 8441. Definitions

17 ``For the purposes of this subchapter--

18 `` (1) the term 'administrator of benefits' means--

19 `` (A) the Office; or

20 `` (B) an insurance company or other entity

21 which--

22 `` (1) offers claims payment services and  
23 related administrative services under benefit  
24 plans provided on a self-insured basis by  
25 employers in the private sector; and

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1           “(11) has entered into a contract with the  
2           Office pursuant to section 8450 of this title;

3           “(2) the term ‘disability benefits under the Social  
4           Security Act’ means disability insurance benefits payable  
5           under section 223 of the Social Security Act or benefits  
6           payable under section 202 of such Act by reason of being  
7           under a disability;

8           “(3) the term ‘disability date’, when used with  
9           respect to an eligible participant, means the date the  
10          eligible participant became disabled;

11          “(4) the term ‘disabled’, when used with respect to  
12          an eligible participant, means that the eligible  
13          participant--

14               “(A) is under a disability within the meaning of  
15               section 223 of the Social Security Act; or

16               “(B) is unable, because of disease or injury, to  
17               render useful and efficient service in the  
18               participant’s position and is not qualified for  
19               reassignment, under procedures prescribed by the  
20               Office, to a vacant position--

21               “(1) which is in the participant’s employing  
22               agency and is in the participant’s commuting  
23               area;

24               “(11) which is at the same grade or pay  
25               level as the participant’s position; and

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1           “(111) in which the participant would be  
2           able to render useful and efficient service;

3           “(5) the term ‘eligible participant’ means an  
4           employee or Member whose service exceeds 18 months and--

5           “(A) who--

6           “(1) has applied for disability benefits  
7           under the Social Security Act and has been  
8           determined to be under a disability for the  
9           purposes of title II of the Social Security Act;  
10          or

11          “(11) in the case of an employee or Member  
12          who is not entitled to disability benefits under  
13          the Social Security Act by reason of insufficient  
14          quarters of coverage, has been determined by an  
15          administrator of benefits to be disabled within  
16          the meaning of paragraph (4)(A) of this section  
17          on the basis of a report of examination required  
18          by section 8445 of this title; or

19          “(B) who has been determined by an administrator  
20          of benefits to be disabled within the meaning of  
21          paragraph (4)(B) of this section on the basis of a  
22          report of examination required by section 8445 of  
23          this title and the findings of the Office with  
24          respect to the reassignment of the employee;

25          “(6) the term ‘onset average pay’, when used with



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1       respect to a disabled eligible participant, means the  
2       participant's average pay on the participant's disability  
3       date increased on January 1 of each year after such date  
4       by the same percent by which annuities referred to in  
5       paragraph (1) of section 8462(b) of this title are  
6       increased under such section 8462(b) in December of the  
7       preceding year, and compounded; and

8        “(7) the term ‘projected service’, when used with  
9       respect to a disabled eligible participant, means the sum  
10      of the number of years of service performed by the  
11      participant before the participant's disability date and  
12      the number of years, if any, after such date and before  
13      the date the participant becomes--

14        “(A) in the case of an eligible participant  
15      referred to in subparagraph (5)(A) of this section,  
16      62 years of age; or

17        “(B) in the case of an eligible participant  
18      referred to in subparagraph (5)(B) of this section,  
19      55 years of age.

20    “§ 8442. Entitlement

21       “(a)(1) A person who is an eligible participant, is  
22      disabled, and has used all sick leave accrued and accumulated  
23      under subchapter I of chapter 63 of this title or any other  
24      similar applicable provision of law relating to Government  
25      employment is entitled to receive disability benefits under

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1 this subchapter while--

2       “(A) in the case of a person who is disabled within  
3 the meaning of section 8441(4)(A) of this title, such  
4 person is under 62 years of age and during the month in  
5 which such person becomes such age; and

6       “(B) in the case of a person who is disabled within  
7 the meaning of section 8441(4)(B) of this title, such  
8 person is under 55 years of age and during the month in  
9 which such person becomes such age.

10       “(2) On and after the first day of the first month  
11 beginning after the month in which a person referred to in  
12 paragraph (1) of this subsection becomes the maximum age  
13 prescribed for such person in subparagraph (A) or (B) of such  
14 paragraph, the person shall be treated as an eligible  
15 participant for the purposes of entitlement to benefits under  
16 subsection (b) of this section.

17       “(b)(1) An eligible participant who--

18           “(A) is disabled within the meaning of section  
19 8441(4)(A) of this title and is not less than 62 years of  
20 age, or

21           “(B) is disabled within the meaning of section  
22 8441(4)(B) of this title and is not less than 55 years of  
23 age,

24 and who has 5 or more years of service and projected service  
25 shall be entitled to an annuity as provided in subchapter II

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1 of this title.

2       “(2) For the purposes of applying the provisions of  
3 subchapter II of this title in the case of an eligible  
4 participant pursuant to paragraph (1) of this subsection--

5           “(A) the eligible participant shall be deemed to  
6 have separated from Government employment on the day  
7 before the date the participant becomes entitled to an  
8 annuity pursuant to paragraph (1) of this subsection;

9           “(B) the service of the participant shall include  
10 the participant's projected service; and

11           “(C) the participant's average pay shall be equal to  
12 the participant's onset average pay.

13       “(c) If the condition of an eligible participant who is  
14 disabled within the meaning of subparagraph (A) or (B) of  
15 section 8441(4) of this title changes such that the  
16 participant is disabled within the meaning of the other such  
17 subparagraph, the entitlement of such participant to receive  
18 disability benefits under this subchapter shall be adjusted  
19 as appropriate to reflect the changed condition.

20       “§ 8443. Computation of benefits

21           “(a) The annual rate of the disability benefits payable  
22 under section 8442(a) of this title to an eligible  
23 participant referred to in section 8441(5)(A) of this title  
24 shall be equal to the excess of 60 percent of the  
25 participant's onset average pay over the amount, if any,

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1 payable to the participant as disability benefits under the  
2 Social Security Act.

3     “(b) The annual rate of the disability benefits payable  
4 under section 8442(a) of this title to an eligible  
5 participant referred to in section 8441(5)(B) of this title--

6         “(1) during the period ending 1 year after the  
7 eligible participant's disability date, shall be equal to  
8 the excess of 60 percent of the participant's onset  
9 average pay over the amount, if any, payable to the  
10 participant as disability benefits under the Social  
11 Security Act; and

12         “(2) after such period, while the participant is  
13 under 55 years of age, shall be equal to the excess of 40  
14 percent of the participant's onset average pay over the  
15 amount, if any, payable to the participant as disability  
16 benefits under the Social Security Act.

17     “§ 8444. Application

18         “(a) Except as provided in subsection (b) of this  
19 section, a claim of a participant for disability benefits  
20 under this subchapter may be allowed only if the participant  
21 files with the appropriate administrator of benefits an  
22 application for the disability benefits before the date the  
23 participant separates from Government employment or within 1  
24 year after such date.

25         “(b) An appropriate administrator of benefits may waive

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1 the time limitation set out in subsection (a) of this section  
2 in the case of a participant if--

3       “(1) the administrator of benefits determines that  
4 the participant was mentally incompetent on the date the  
5 participant separated from Government employment or  
6 within 1 year after such date; and

7       “(2) the application for disability benefits is  
8 filed within 1 year after the date the participant is  
9 restored to mental competency or the date a fiduciary is  
10 appointed to manage the financial affairs of the  
11 participant, whichever date is earlier.

12   “§ 8445. Medical examinations

13       “(a) A participant applying for or receiving disability  
14 benefits under section 8442(a) of this title shall be  
15 examined by a physician under the direction of the  
16 appropriate administrator of benefits at such times as such  
17 administrator may require.

18       “(b) A physician examining a participant under  
19 subsection (a) of this section shall report to the  
20 appropriate administrator of benefits the diagnosis and  
21 prognosis with respect to such participant.

22       “(c) Notwithstanding any other provision of this  
23 subchapter, any participant who fails to submit to the  
24 examination required under subsection (a) of this section  
25 shall not be entitled to disability benefits.

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1 ``§ 8446. Offers of alternative employment

2 `` (a)(1) Any participant who is applying for disability  
3 benefits under this subchapter, is examined pursuant to  
4 section 8445 of this title, and is determined on the basis of  
5 the examination to be able to perform the work required in  
6 any position described in paragraph (2) of this subsection  
7 shall be considered for appointment to such position.

8 `` (2) A position referred to in paragraph (1) of this  
9 subsection is a position which is in the agency of the  
10 Government employing the participant referred to in such  
11 paragraph, is a position for which the participant is  
12 qualified, is not lower than the grade or pay level of the  
13 participant's position, and is within the participant's  
14 commuting area.

15 `` (b) Any participant who is appointed to or offered a  
16 position under subsection (a) of this section is entitled to  
17 appeal to the Merit Systems Protection Board under section  
18 7701 of this title any determination that the participant is  
19 able to perform the work required of such position.

20 ``§ 8447. Recovery or restoration of earning capacity

21 `` (a)(1) If an administrator of benefits determines that  
22 an individual who is receiving disability benefits under this  
23 subchapter has recovered from the disability before becoming  
24 62 years of age (in the case of an individual who is disabled  
25 within the meaning of section 8441(4)(A) of this title) or 55

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1 years of age (in the case of an individual who is disabled  
2 within the meaning of section 8441(4)(B) of this title),  
3 payment of the benefits shall terminate on the date the  
4 individual is reemployed by the Government or 1 year after  
5 the date of the medical examination on which such  
6 administrator's determination is based, whichever date is  
7 earlier.

8     “(2)(A) Payment of disability benefits to any individual  
9 under this chapter that has been terminated pursuant to  
10 paragraph (1) of this subsection shall be resumed if there is  
11 a recurrence of the individual's disability, as determined by  
12 an administrator of benefits after a medical examination of  
13 the individual, and the individual is under 62 years of age  
14 (in the case of an individual who is disabled within the  
15 meaning of section 8441(4)(A) of this title) or under 55  
16 years of age (in the case of an individual who is disabled  
17 within the meaning of section 8441(4)(B) of this title).

18     “(B) A resumption of payment of disability benefits  
19 under subparagraph (A) of this paragraph shall be effective  
20 on the date the medical examination referred to in such  
21 paragraph was completed.

22     “(C) The annual rate of the disability benefits payable  
23 to an individual upon resumption of payment under  
24 subparagraph (A) of this paragraph shall be the annual rate  
25 that would have been payable to the individual if payment of

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1 disability benefits had not been terminated pursuant to  
2 paragraph (1) of this subsection.

3     “(b)(1) If the administrator of benefits determines that  
4 an individual who is receiving disability benefits under this  
5 subchapter has received, during the latest calendar year,  
6 income from wages or self-employment or both totalling the  
7 amount equal to 60 percent of the rate of pay payable for the  
8 individual's position of Government employment on the  
9 individual's disability date determined for the purposes of  
10 this subchapter (increased as if such rate of pay had been  
11 increased, by the same percent as the overall percent  
12 increase in the rates of pay under the General Schedule, each  
13 time such rates had been increased pursuant to section 5305  
14 of this title since such date), payment of the benefits shall  
15 terminate on the date 60 days after the end of such calendar  
16 year.

17     “(2)(A) If payment of disability benefits under this  
18 subchapter has been terminated pursuant to paragraph (1) of  
19 this subsection in the case of an individual who is not  
20 reemployed in a position subject to this chapter, who  
21 continues to be disabled, who is under 62 years of age (in  
22 the case of an individual who is disabled within the meaning  
23 of section 8441(4)(A) of this title) or under 55 years of age  
24 (in the case of an individual who is disabled within the  
25 meaning of section 8441(4)(B) of this title), and who



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1 receives in the calendar year in which the disability  
2 benefits were terminated, or any calendar year after such  
3 year, income from wages or self-employment or both totalling  
4 less than the amount computed in such case as provided in  
5 such paragraph, payment of disability benefits to the  
6 individual under this subchapter shall be resumed.

7     “(B) A resumption of payment of disability benefits to  
8 an individual under subparagraph (A) of this paragraph shall  
9 be effective the first day of the first year beginning after  
10 the year in which the individual received the income referred  
11 to in such subparagraph.

12     “(C) The annual rate of the disability benefits payable  
13 to an individual upon resumption of payment of disability  
14 benefits under subparagraph (A) of this paragraph shall be  
15 the annual rate that would have been payable to the  
16 individual if payment had not been terminated pursuant to  
17 paragraph (1) of this subsection.

18     “(c) Any determination under this section may be  
19 appealed to the Office. A determination of the Office in such  
20 an appeal may be appealed to the Merit Systems Protection  
21 Board under section 7701 of this title. The Merit Systems  
22 Protection Board may hear and adjudicate any such appeal.

23     “§ 8448. Relationship to workers' compensation

24     “(a)(1) An individual is not entitled to receive  
25 disability benefits under this subchapter and compensation

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1 for injury to or disability of the individual under  
2 subchapter I of chapter 81 of this title covering the same  
3 period of time.

4     “(2) Paragraph (1) of this subsection does not bar the  
5 right of a claimant to the greater benefit conferred by  
6 either subchapter referred to in such paragraph for any part  
7 of the period referred to in such paragraph.

8     “(3) Paragraph (1) of this subsection and the provisions  
9 of subchapter I of chapter 81 of this title do not deny an  
10 individual an annuity which the individual is entitled to  
11 receive under this chapter on account of service performed by  
12 the individual and do not deny any concurrent benefit to the  
13 individual under subchapter I of chapter 81 of this title on  
14 account of the death of another individual.

15     “(b)(1) Subject to paragraph (2) of this subsection, an  
16 individual's receipt of a lump-sum payment for compensation  
17 under section 8135 of this title shall not affect the  
18 individual's entitlement to disability benefits under this  
19 subchapter.

20     “(2) If disability benefits are payable under this  
21 subchapter by reason of the same disability for which a lump-  
22 sum payment of compensation referred to in paragraph (1) of  
23 this subsection has been made, so much of the compensation as  
24 has been paid for a period extended beyond the date payment  
25 of the disability benefits commences, as determined by the

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1 Department of Labor, shall be refunded to that Department for  
2 credit to the Employees' Compensation Fund. Before the  
3 individual may receive the disability benefits, the  
4 individual shall--

5        “(A) refund to the Department of Labor the amount  
6        representing the commuted compensation payments for the  
7        extended period; or

8        “(B) authorize the deduction of the amount from the  
9        disability benefits.

10 Deductions from the disability benefits may be made from  
11 accrued or accruing payments. The amounts deducted and  
12 withheld from disability benefits shall be transmitted to the  
13 Department of Labor for reimbursement to the Employees'  
14 Compensation Fund. When the Department of Labor finds that  
15 the financial circumstances of an individual entitled to  
16 disability benefits under this subchapter warrant deferred  
17 refunding under this paragraph, deductions from the  
18 disability benefits may be prorated against and paid from  
19 accruing payments in such manner as the Department determines  
20 appropriate.

21    “§ 8449. Military reserve technicians

22        “(a)(1) Except as provided in paragraph (2) of this  
23 subsection, a participant shall be entitled to disability  
24 benefits under this subchapter in the same manner as an  
25 eligible participant described in section 8441(5)(B) of this

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1 title if the participant--

2       “(A) is separated from employment as a military  
3 reserve technician by reason of a disability that  
4 disqualifies the individual from membership in a reserve  
5 component of the Armed Forces specified in section 261(a)  
6 of title 10 or from holding the military grade required  
7 for such employment;

8       “(B) is not considered disabled;

9       “(C) is not appointed to another position in the  
10 Government (under subsection (b) of this section or  
11 otherwise); and

12       “(D) has not declined an offer of appointment to a  
13 position in the Government under subsection (b) of this  
14 section.

15       “(2) Payment of disability benefits to an individual  
16 under this section terminates--

17       “(A) on the date the individual is appointed to a  
18 position in the Government (under subsection (b) of this  
19 section or otherwise);

20       “(B) on the date the individual declines an offer of  
21 appointment to a position in the Government pursuant to  
22 subsection (b) of this section; or

23       “(C) as provided in section 8447(a) or 8447(b) of  
24 this title.

25       “(b) Any individual applying for or receiving disability

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1 benefits pursuant to this section shall, in accordance with  
2 regulations prescribed by the Office, be considered by any  
3 agency of the Government before any vacant position in the  
4 agency is filled if--

5       “(1) the position is located within the commuting  
6 area of the individual's former position;

7       “(2) the individual is qualified to serve in the  
8 vacant position; and

9       “(3) the position is at the same grade or equivalent  
10 level as the position from which the individual was  
11 separated.

12    “§ 8450. Administrative provisions

13       “(a) For the purpose of this section, the term ‘State’  
14 means a State of the United States, the District of Columbia,  
15 the Commonwealth of Puerto Rico, and a territory or  
16 possession of the United States.

17       “(b)(1) In order to provide for the administration of  
18 benefits under this subchapter with maximum efficiency and  
19 convenience for individuals entitled to such benefits, the  
20 Office is authorized to contract with one or more insurance  
21 companies or other entities described in section 8441(1)(A)  
22 of this title which the Office determines is appropriately  
23 qualified to perform some or all of the functions described  
24 in paragraph (2) of this subsection (to the extent that the  
25 Office is not expressly required by this subchapter to

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1 perform any function). The authority under this paragraph  
2 shall be exercised in accordance with provisions of this  
3 subchapter and applicable regulations issued pursuant to  
4 section 8461(c) of this title.

5     “(2) The functions referred to in paragraph (1) of this  
6 subsection are as follows:

7         “(A) Receive disability applications and determine  
8 benefits entitlements based upon medical evidence and  
9 availability of alternative employment.

10         “(B) Compute the amount of a benefits entitlement.

11         “(C) Receive, disburse, and account for monies from  
12 the Federal Employees' Disability Insurance Fund.

13         “(D) Monitor individual cases for rehabilitation  
14 opportunities and determine recovery from disability or  
15 restoration to earning capacity.

16         “(E) Serve as a channel of communication of  
17 information relating to administration of this  
18 subchapter.

19         “(F) Otherwise assist, in such manner as a contract  
20 entered into under paragraph (1) of this subsection may  
21 provide, in discharging administrative duties necessary  
22 to carry out the provisions of this subchapter.

23         “(c) A contractor under a contract awarded under  
24 subsection (b) of this section shall establish an  
25 administrative office under a name approved by the Office.

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1       “(d) Subject to subsection (e) of this section, each  
2 contract under this section shall be for a term not to exceed  
3 5 years and may be automatically renewable, in the absence of  
4 notice by either party of intention to terminate at the end  
5 of the then current term, for successive terms of 1 year  
6 each.

7       “(e) The Office may terminate any such contract under  
8 this section at any time (after such reasonable notice and  
9 opportunity for hearing as the Office may prescribe in  
10 regulations) if the Office finds that the contractor has  
11 failed substantially to carry out the contract or is carrying  
12 out the contract in a manner which is inconsistent with the  
13 efficient administration of this subchapter.

14       “(f) Each contract entered into under this section shall  
15 provide for advances of monies from the Federal Employees’  
16 Disability Insurance Fund to the contractor for purposes of  
17 paying disability benefits under this subchapter and the  
18 costs of administration, as determined by the Office to be  
19 necessary and proper for carrying out the functions covered  
20 by the contract.

21       “(g) The Director may include in contracts awarded under  
22 subsection (b) of this section such terms and conditions as  
23 he considers appropriate to protect the interests of  
24 participants and the United States.

25       “(h) All records established or maintained by an

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1 administrator of benefits in the administration of this  
2 subchapter shall be the property of the United States. The  
3 administrator of benefits shall deliver such records to the  
4 Office whenever requested by the Office.

5       “(1) The provisions of any contract under this  
6 subchapter which relate to the nature or extent of coverage  
7 or benefits (including payments with respect to benefits)  
8 shall supersede and preempt any law of any State or political  
9 subdivision thereof, or any regulation issued thereunder,  
10 which relates to group disability insurance to the extent  
11 that the law or regulation is inconsistent with the  
12 contractual provisions.

13       “(j) The Secretary of Health and Human Services shall  
14 furnish to the Office and an administrator of benefits such  
15 information, including information on individuals claiming  
16 entitlement to benefits under this subchapter, as the Office  
17 determines to be necessary to carry out this subchapter.

18       “§ 8451. Annual accounting; special contingency reserve

19       “(a) A contract awarded under section 8450 of this title  
20 shall include a provision requiring the administrator of  
21 benefits under the contract to transmit an accounting to the  
22 Office not later than 90 days after the end of each contract  
23 year. The accounting shall set forth, in a form approved by  
24 the Office--

25       “(1) the total amount of all monies advanced to the



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1 contracting entity from the Federal Employees' Disability  
2 Insurance Fund during the contract year;

3 "(2) the total of all benefit payments made during  
4 the contract year; and

5 "(3) the amounts of the authorized administrative  
6 expenses charged for the contract year.

7 "(b) Any excess of the amount described in subsection  
8 (a)(1) of this section over the sum of the amounts described  
9 in subsections (a)(2) and (a)(3) of this section for a  
10 contract year shall be credited to contract charges in the  
11 succeeding contract year or returned to the Federal  
12 Employees' Disability Insurance Fund upon termination of the  
13 contract, as the Office directs.

14 "§ 8452. Federal Employees' Disability Insurance Fund

15 "(a) There is established in the Treasury of the United  
16 States a fund to be known as the 'Federal Employees'  
17 Disability Insurance Fund'.

18 "(b)(1) Each agency of the Government employing  
19 participants shall make periodic payments to the Federal  
20 Employees' Disability Insurance Fund equal to a percentage of  
21 the basic pay of each participant which the Office determines  
22 is necessary to fund benefits and administrative expenses  
23 under this subchapter.

24 "(2) An employing agency shall pay the amounts required  
25 by paragraph (1) of this subsection from the appropriation or

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1 fund available for payment of the basic pay or salaries of  
2 employees of the agency. In the case of a participant in the  
3 legislative branch who is paid by the Clerk of the House of  
4 Representatives, the amount shall be paid from the contingent  
5 fund of the House of Representatives.

6     “(c) Sums in the Federal Employees’ Disability Insurance  
7 Fund shall be available without fiscal year limitation as the  
8 Office determines necessary to pay disability benefits and  
9 administrative expenses authorized by this subchapter.

10     “(d) The Secretary of the Treasury may invest and  
11 reinvest any of the money in the Federal Employees’  
12 Disability Insurance Fund in interest-bearing obligations of  
13 the United States and may sell such obligations for the  
14 purposes of such fund. The interest on and the proceeds from  
15 the sale of these obligations, and the income derived from  
16 premium rate adjustments, become a part of such fund.

17     “(e)(1) No tax, fee, or other monetary payment may be  
18 imposed or collected by any State or by any political  
19 subdivision or other governmental authority thereof on, or  
20 with respect to, any funds transferred to contractors under  
21 this subchapter for payment and administration of disability  
22 benefits under this subchapter.

23     “(2) Paragraph (1) of this subsection shall not be  
24 construed to exempt any administrator of benefits from the  
25 imposition, payment, or collection of a tax, fee, or other

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1 monetary payment on the net income or profit accruing to or  
2 realized by the administrator from business conducted under  
3 this subchapter, if that tax, fee, or payment is applicable  
4 to a broad range of business activity.

5 ``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

6 ``§ 8461. Authority of the Office of Personnel Management

7 `` (a) The Office shall pay all benefits that are payable  
8 under this chapter from the Fund.

9 `` (b) The Office shall administer all provisions of this  
10 chapter not specifically required to be administered by the  
11 Board, the Executive Director, or any other agency.

12 `` (c) The Office may make regulations to carry out the  
13 provisions of this chapter administered by the Office.

14 `` (d) The Office may contract for the performance of any  
15 administrative services necessary to carry out its  
16 responsibilities under this chapter.

17 ``§ 8462. Cost-of-living adjustment in basic plan annuities  
18 and survivor annuities

19 `` (a) For the purpose of this section--

20 `` (1) the term 'base quarter', when used with respect  
21 to a year, means the calendar quarter ending on September  
22 30, of such year; and

23 `` (2) the price index for a base quarter is the  
24 arithmetic mean of such index for the 3 months comprising  
25 such quarter.

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1       “(b)(1) Except as provided in subsection (c) of this  
2 section, effective December 1 of each year in which the price  
3 index for the base quarter of such year exceeds the price  
4 index for the base quarter of the preceding year, each  
5 annuity which is payable from the Fund under subchapter II or  
6 IV of this chapter and commences not later than such December  
7 1 shall be increased by the percentage computed under  
8 paragraph (2) of this subsection.

9       “(2) The percentage by which an annuity is increased  
10 under paragraph (1) of this subsection in any year shall be  
11 the excess, if any, of--

12           “(A) the percentage of the increase in the price  
13 index for the base quarter of such year over the price  
14 index of the preceding year, over

15           “(B) 2 percent.

16       “(c)(1) The first increase (if any) made under  
17 subsection (b) of this section to an annuity payable to a  
18 participant who retires, to the surviving spouse or surviving  
19 former spouse of a deceased participant, or to the surviving  
20 spouse or surviving former spouse of a deceased annuitant  
21 whose annuity has never been increased under this subsection  
22 or subsection (b) of this section shall be equal to the  
23 product (adjusted to the nearest one-tenth of 1 percent) of--

24           “(A) one-twelfth of the applicable percentage of the  
25 adjustment computed under subsection (b) of this section,

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1 multiplied by

2       “(B)(1) the number of months (counting any portion  
3 of a month as a month) for which the annuity was payable  
4 before the effective date of the increase, or

5       “(11) in the case of a survivor annuity payable to a  
6 surviving spouse or surviving former spouse of a deceased  
7 annuitant whose annuity has never been so increased, the  
8 number of months (counting any portion of a month as a  
9 month) since the annuity was first payable to the  
10 deceased annuitant.

11       “(2) Effective on its commencing date, an annuity  
12 referred to in subsection (b) of this section and payable to  
13 an annuitant's surviving spouse or surviving former spouse  
14 shall be increased by the total percentage by which the  
15 deceased annuitant's annuity had been increased under this  
16 section during the period beginning on the date the deceased  
17 annuitant's annuity commenced and ending on the date of the  
18 deceased annuitant's death.

19       “(d) The monthly installment of an annuity payable after  
20 adjustment under this section shall be rounded to the next  
21 lowest dollar, but the increase in the monthly installment  
22 under this section shall be at least \$1.

23       “§ 8463. Rate of benefits

24       “Each annuity and disability benefit is stated as an  
25 annual amount, one-twelfth of which, fixed at the next lowest

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1 dollar, constitutes the monthly rate payable on the first  
2 business day of the first month beginning after the last day  
3 of the month for which the annuity or disability benefit has  
4 accrued.

5 ``§ 8464. Commencement and termination of annuities

6 ``(a)(1) Except as otherwise provided in this chapter,  
7 the annuity of a participant under subchapter II of this  
8 chapter shall commence on the first day of the first month  
9 beginning after--

10 ``(A) the date the participant separates from  
11 Government employment entitled to an immediate annuity  
12 under section 8411 of this title, or

13 ``(B) in the case of a participant who is entitled to  
14 a deferred annuity under section 8412 of this title and  
15 is not entitled to an immediate annuity under section  
16 8411 of this title, the date elected by the participant  
17 under section 8412(a) of this title or the date the  
18 participant becomes 62 years of age, whichever is  
19 earlier,

20 as the case may be.

21 ``(2) The annuity of an annuitant under this chapter  
22 terminates on the date of death or other terminating event  
23 provided by law.

24 ``(b)(1) Except as otherwise provided in this chapter, a  
25 survivor annuity payable to an individual under this chapter

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1 shall commence on the first day of the first month beginning  
2 after the date of the death of the deceased participant or  
3 former participant on whose death such annuity is based.

4     “(2) A survivor annuity payable to a surviving spouse or  
5 an eligible former spouse of a deceased participant or  
6 deceased former participant under this chapter terminates on  
7 the last day of the last month ending before the surviving  
8 spouse or former spouse dies or, if the surviving spouse or  
9 former spouse is less than 55 years of age, remarries.

10    “§ 8465. Waiver, allotment, and assignment of benefits

11     “(a) An individual entitled to receive payment of  
12 benefits under subchapter II of this chapter may decline to  
13 accept all or any part of the amount of the benefits by a  
14 waiver signed and filed with the Office. The waiver may be  
15 revoked in writing at any time. Payment of the benefits  
16 waived may not be made for the period during which the waiver  
17 is in effect.

18     “(b) An individual entitled to receive payment of  
19 benefits under subchapter II of this chapter may make  
20 allotments or assignments of amounts from the benefits for  
21 such purposes as the Office considers appropriate.

22    “§ 8466. Application for benefits

23     “(a) No payment of benefits based on the service of a  
24 former participant shall be made under this chapter unless an  
25 application for payment of the benefits is received by the

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1 Office before the one hundred and fifteenth anniversary of  
2 the former participant's birth.

3     "(b) Notwithstanding subsection (a) of this section,  
4 after the death of a participant or former participant, a  
5 benefit based on the participant's or former participant's  
6 service shall not be paid under subchapter IV of this chapter  
7 unless an application therefor is received by the Office  
8 within 30 years after the death or other event which  
9 establishes the entitlement to the benefit.

10    "\$ 8467. Court orders

11     "(a) Payments under this chapter which would otherwise  
12 be made to a participant or former participant based upon the  
13 service of the participant or former participant shall be  
14 paid (in whole or in part) by the Office or the Executive  
15 Director, as the case may be, to another person if and to the  
16 extent that the terms of any court decree of divorce,  
17 annulment, or legal separation, or the terms of any court  
18 order or court-approved property settlement agreement  
19 incident to any court decree of divorce, annulment, or legal  
20 separation expressly provide. Any payment under this  
21 paragraph to a person bars recovery by any other person.

22     "(b) Subsection (a) of this section shall apply only to  
23 payments made by the Office or the Executive Director under  
24 this chapter after the date on which the Office or the  
25 Executive Director, as the case may be, receives written



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1 notice of such decree, order, or agreement, and such  
2 additional information and documentation as the Office or the  
3 Executive Director may require.

4 ``§ 8468. Annuities and pay on reemployment

5 `` (a)(1) Except in the case of an annuitant who has made  
6 an election under subsection (b) of this section, if an  
7 annuitant becomes employed in an appointive or elective  
8 position in the Government, payment of any annuity under  
9 subchapter II of this chapter to the annuitant terminates  
10 effective on the date of the employment, and the annuitant's  
11 service on and after the date the annuitant becomes so  
12 employed is covered by this chapter. Upon termination of the  
13 employment, the rights of the annuitant under subchapter II  
14 of this chapter shall be redetermined. If the annuitant dies  
15 while still so employed, a survivor annuity payable with  
16 respect to the deceased annuitant shall be redetermined as if  
17 the employment had otherwise terminated on the date of death.

18 `` (2) The amount of an annuity resulting from a  
19 redetermination of rights under this chapter pursuant to  
20 paragraph (1) of this subsection shall not be less than the  
21 amount of the terminated annuity plus any increases under  
22 section 8462 of this title occurring after the termination of  
23 the annuity and before the commencement of the redetermined  
24 annuity.

25 `` (b)(1) Under regulations prescribed by the Office, an

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1 annuitant who becomes employed in an appointive or elective  
2 position in the Government on a part-time basis may elect to  
3 continue to receive an annuity under subchapter II of this  
4 chapter as provided in this subsection.

5     “(2) The annuity payable under subchapter II of this  
6 chapter to an annuitant making an election under paragraph  
7 (1) of this subsection shall be reduced during the part-time  
8 employment referred to in such paragraph as necessary to  
9 carry out paragraph (3) of this subsection.

10     “(3) The sum of--

11         “(A) the amount of an annuity payable under  
12 subchapter II of this chapter to an annuitant making an  
13 election under paragraph (1) of this subsection, and

14         “(B) the annual rate of pay payable to the  
15 annuitant,

16 during the part-time employment referred to in such paragraph  
17 may not exceed the annual rate of pay which is payable for  
18 full-time employment in the position in which the annuitant  
19 is employed.

20     “(4) Upon termination of the part-time employment  
21 referred to in paragraph (1) of this subsection, payment of  
22 the full annuity of an annuitant who has made an election  
23 under paragraph (1) of this subsection shall resume. The  
24 amount of the full annuity, upon resumption of payment, shall  
25 be the amount of the annuity which would have been payable to

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1 the annuitant if the annuitant had not accepted such  
2 employment.

3 ``§ 8469. Information

4 ``The Office shall make available to each individual who  
5 is required or eligible to be a participant such information  
6 as may be necessary to enable the individual to understand  
7 the rights and benefits, including options, which the  
8 individual has under the provisions of this chapter.

9 ``SUBCHAPTER VII--TRANSITION PROVISIONS

10 ``§ 8471. Treatment of certain individuals subject to the  
11 Civil Service Retirement and Disability System

12 ``(a)(1)(A) Any individual--

13 ``(i) who is subject to subchapter III of chapter 83  
14 of this title as an employee (as defined in section  
15 8331(1) of this title, other than an individual employed  
16 by the government of the District of Columbia), whose  
17 service is not employment for the purposes of title II of  
18 the Social Security Act and chapter 21 of the Internal  
19 Revenue Code of 1954, and who is not required by section  
20 8402 of this title to be a participant, or

21 ``(ii) who is a Member of Congress (as defined in  
22 section 2106 of this title) and who is not required by  
23 section 8402 of this title to be a participant,  
24 may elect to commence participation in the System.

25 ``(B) An election made under subparagraph (A) of this

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1 paragraph shall be made in writing, in accordance with such  
2 regulations as the Office may prescribe, and not later than  
3 December 31, 1987, or, in the case of an individual who  
4 becomes an employee or Member after a break in service for a  
5 period that includes January 1, 1987, not later than 1 year  
6 after the date on which the individual resumes service.

7       “(2) Except as provided in section 8472(d) of this  
8 title, any individual who makes the election authorized by  
9 paragraph (1) of this subsection shall retain accrued credit  
10 for entitlement to benefits under subchapter III of chapter  
11 83 of title 5, United States Code, for service performed  
12 while subject to such subchapter.

13       “(3) An individual referred to in paragraph (1) of this  
14 subsection who becomes an employee or Member after a break in  
15 service for a period that includes January 1, 1987, may make  
16 deposits under section 8334 of this title for service  
17 performed before such date while subject to subchapter III of  
18 chapter 83 of this title.

19       “(b) Except as provided in section 8472(d) of this  
20 title, any individual who--

21               “(1) has an unrefunded lump-sum credit in the Fund  
22       under subchapter III of chapter 83 of this title,

23               “(2) is required by section 8402 of this title to be  
24       a participant, and

25               “(3) is not a participant referred to in section

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1       8473(a) of this title,  
2 shall retain accrued credit for entitlement to benefits under  
3 such subchapter for service performed while subject to such  
4 subchapter.

5       “(c) Except as provided in section 8472(d) of this  
6 title, any individual who--

7           “(1) has received a refund of a lump-sum credit in  
8 the Fund under subchapter III of chapter 83 of this  
9 title,

10          “(2) is required by section 8402 of this title to be  
11 a participant, and

12          “(3) is not a participant referred to in section  
13 8473(a) of this title,

14 may make deposits under section 8334 of this title for  
15 service performed before January 1, 1987, while subject to  
16 subchapter III of chapter 83 of this title and shall, upon  
17 making such deposits, be entitled to credit under such  
18 subchapter for service covered by the deposits.

19       “(d) Survivor benefits shall be payable as provided in  
20 subchapter III of chapter 83 of this title and this chapter  
21 to the extent of the service creditable under such subchapter  
22 (pursuant to this section) and this chapter in the case of a  
23 participant referred to in subsection (a), (b), or (c) of  
24 this section.

25       “§ 8472. Special rules for participants retaining

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1 entitlement in the Civil Service Retirement and  
2 Disability System

3 `` (a) Service that is creditable under subchapter III of  
4 chapter 83 of this title in the case of an individual who  
5 elects to be a participant or who retains entitlement in the  
6 Civil Service Retirement and Disability System under section  
7 8471 of this title shall be credited as service under this  
8 chapter only--

9 `` (1) for the purposes of determining eligibility to  
10 retire entitled to an annuity under section 8411 or 8412  
11 of this title and entitlement for disability benefits  
12 under subchapter V of this chapter; and

13 `` (2) for the purpose of considering such service as  
14 years of participation in the System for the purposes of  
15 section 8422 of this title (relating to vesting under the  
16 thrift savings plan).

17 `` (b) Service performed as a participant in the System by  
18 an individual referred to in subsection (a) of this section  
19 shall be credited under subchapter III of chapter 83 of this  
20 title only for the purpose of determining eligibility to  
21 retire entitled to an annuity under section 8335, 8336, or  
22 8338 of this title.

23 `` (c) (1) The rates of basic pay in effect for an  
24 individual referred to in subsection (a) of this section on  
25 and after the date the individual begins to participate in

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1 the System shall be taken into account in computing the  
2 individual's average pay (as defined in section 8331(4) of  
3 this title) for the purposes of subchapter III of chapter 83  
4 of this title.

5     “(2) The rates of basic pay in effect for an individual  
6 referred to in subsection (a) of this section before the date  
7 the individual begins to participate in the System shall be  
8 taken into account in computing the individual's average pay  
9 for the purposes of this chapter.

10     “(d) Section 8337 of this title (relating to disability  
11 retirement) shall not apply in the case of a participant  
12 referred to in subsection (a).

13     “§ 8473. Participants subject to the Federal Employees’

14                     Retirement Contribution Temporary Adjustment

15                     Act of 1983

16     “(a)(1) The service of a participant with respect to  
17 which a reduced contribution is made under section 204(a) of  
18 the Federal Employees’ Retirement Contribution Temporary  
19 Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note)  
20 shall be credited as service for the purposes of this chapter  
21 and shall be considered years of participation in the System  
22 for the purposes of section 8422(b)(1) of this title.

23     “(2) Paragraph (1) of this subsection shall not apply to  
24 a Member of Congress (as defined in section 2106 of this  
25 title).

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1       “(b)(1) On January 1, 1987, the amount computed under  
2 paragraph (2) of this subsection shall be transferred from  
3 the Fund to the Thrift Savings Fund in the case of a  
4 participant to whom subsection (a)(1) of this section  
5 applies. The amount transferred shall be credited to an  
6 account established for the individual pursuant to section  
7 8428(a) of this title.

8       “(2)(A) The amount transferred from the Fund in the case  
9 of a participant pursuant to paragraph (1) of this subsection  
10 shall be equal to the sum of--

11       “(1) two times the total amount deducted and  
12 withheld from the basic pay of the participant pursuant  
13 to section 204(a) of the Federal Employees' Retirement  
14 Contribution Temporary Adjustment Act of 1983 (97 Stat.  
15 1107; 5 U.S.C. 8331 note); and

16       “(ii) interest on the amount referred to in clause  
17 (i) of this subparagraph computed at the annual rate  
18 determined under the second sentence of this subparagraph  
19 and compounded annually, as if a fraction of such amount  
20 (determined as provided in subparagraph (B) of this  
21 paragraph) had been deposited to the credit of the Fund  
22 at the end of each month for which amounts were deducted  
23 and withheld from the basic pay of the participant as  
24 described in clause (i) of this subparagraph.

25 The annual rate referred to in clause (ii) for an amount



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1 transferred from the Fund in any calendar year shall be equal  
2 to the interest rate determined for such calendar year under  
3 section 8334(e) of this title.

4       “(B) In the case of any participant to whom paragraph  
5 (1) of this subsection applies--

6           “(1) the numerator of the fraction referred to in  
7 subparagraph (A)(11) of this paragraph is one; and

8           “(11) the denominator of the fraction is the number  
9 of months for which amounts were deducted and withheld  
10 from the basic pay of the participant as described in  
11 subparagraph (A)(1) of this paragraph.

12       “(3) For the purposes of section 8422 of this title--

13           “(A) one-half of the amount computed in the case of  
14 a participant referred to in subsection (a) of this  
15 section pursuant to paragraph (2) of this subsection  
16 shall be treated as a contribution made under section  
17 8421(a) of this title; and

18           “(B) one-half of such amount shall be treated as a  
19 contribution made by the employing agency of the  
20 participant pursuant to section 8421(b) of this title.

21       “(4) All amounts transferred from the Fund pursuant to  
22 paragraph (1) of this subsection shall be transferred in the  
23 form of interest-bearing securities of the United States.

24       “(c) The total amount of any deposit made to the Fund  
25 under section 8334(j) of this title (relating to deposits

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1 covering periods of military service) in the case of a  
2 participant referred to in subsection (a)(1) of this section  
3 shall be refunded to the participant. The refund shall be  
4 paid out of sums in the Fund.

5 ``§ 8474. Reemployed annuitants under a Government retirement  
6 system.

7 ``(a) For the purposes of this section--

8 ``(1) the term 'annuitant'--

9 ``(A) in the case of the Civil Service Retirement  
10 and Disability System, shall have the same meaning  
11 provided in section 8331(9) of this title;

12 ``(B) in the case of the Foreign Service  
13 Retirement and Disability System, shall have the same  
14 meaning provided in section 804(1) of the Foreign  
15 Service Act of 1980 (22 U.S.C. 4044(1)), except that  
16 such term does not include a survivor; and

17 ``(C) in the case of the Central Intelligence  
18 Agency Retirement and Disability System, means--

19 ``(i) any participant who is referred to in  
20 section 203 of the Central Intelligence Agency  
21 Retirement Act of 1964 for Certain Employees, and

22 ``(ii) any individual who formerly was such a  
23 participant,

24 entitled to an annuity from the Central Intelligence  
25 Agency Retirement and Disability Fund;

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1       “(2) the term ‘Government retirement system’ means--

2               “(A) the Civil Service Retirement and Disability  
3       System under subchapter III of chapter 83 of this  
4       title;

5               “(B) the Foreign Service Retirement and  
6       Disability System under chapter 8 of the Foreign  
7       Service Act of 1980 (22 U.S.C. 4041 et seq.); and

8               “(C) the Central Intelligence Agency Retirement  
9       and Disability System under the Central Intelligence  
10      Agency Retirement Act of 1964 for Certain Employees  
11      (50 U.S.C. 403 note); and

12              “(3) the term ‘reemployed annuitant’ means an  
13      annuitant who becomes employed by the Government after  
14      the effective date of the Federal Retirement Reform Act  
15      of 1985 and is required by section 8402 of this title to  
16      be a participant.

17              “(b) A reemployed annuitant shall retain entitlement in  
18      the Government retirement system under which the annuitant is  
19      receiving an annuity.

20              “(c)(1) Service that is creditable under the Government  
21      retirement system of a reemployed annuitant shall be credited  
22      under this chapter only for the purpose of determining  
23      eligibility to retire entitled to an annuity under section  
24      8411 of this title.

25              “(2) Service performed as a reemployed annuitant shall

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1 not be creditable service for the purposes of the Government  
2 retirement system of the reemployed annuitant.

3     “(d)(1) The rates of basic pay in effect for a  
4 reemployed annuitant on and after the date the annuitant  
5 begins to participate in the System shall be taken into  
6 account in computing the annuitant's average pay for the  
7 purposes of the Government retirement system under which the  
8 annuitant was receiving an annuity when the reemployment  
9 commenced.

10     “(2) The rates of basic pay in effect for a reemployed  
11 annuitant before the date the annuitant begins to participate  
12 in the System shall be taken into account in computing the  
13 annuitant's average pay for the purposes of this chapter.

14     “(e) Deductions may not be withheld from the pay of a  
15 reemployed annuitant for the purposes of the reemployed  
16 annuitant's Government retirement system while the reemployed  
17 annuitant is a participant in the System.

18     “§ 8475. Exemption from certain offset provisions of the  
19                     Social Security Act

20     “Sections 202(b)(4), 202(c)(2), 202(e)(7), 202(f)(2),  
21 202(g)(4), and 215(a)(7) of the Social Security Act shall not  
22 apply in the case of a person who is a participant referred  
23 to in section 8471 of this title and who has completed 5  
24 years of service.

25     “§ 8476. Regulations

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1     "The Office may prescribe regulations to carry out this  
2 subchapter.

3     "SUBCHAPTER VIII--FEDERAL RETIREMENT THRIFT INVESTMENT  
4                                   MANAGEMENT SYSTEM

5     "\$ 8491. Federal Retirement Thrift Investment Board

6     "(a) There is established in the executive branch of the  
7 Government a Federal Retirement Thrift Investment Board.

8     "(b)(1) The Board shall be composed of--

9         "(A) the Chairman of the Federal Reserve Board;

10        "(B) the Secretary of the Treasury;

11        "(C) the Director; and

12        "(D) two representatives of Federal employee

13 organizations appointed by the President, one of whom  
14 shall be a representative from a labor organization (as  
15 defined in section 7103(a)(4) of this title) and one of  
16 whom shall be a representative from an organization for  
17 employees who are managers.

18     "(2) If an office referred to in paragraph (1)(A),  
19 (1)(B), or (1)(C) of this subsection is vacant, the person  
20 acting as the officer in such office shall be a member of the  
21 Board while acting as such officer.

22     "(3) The Chairman of the Federal Reserve Board shall be  
23 the Chairman of the Board.

24     "(4) The members of the Board appointed under paragraph  
25 (1)(D) of this subsection shall serve until replaced by the

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1 President.

2       ``(c) The Board shall--

3           ``(1) establish policies for--

4               ``(A) the investment and management of the Thrift  
5 Savings Fund; and

6               ``(B) the administration of subchapter III of  
7 this chapter and the provisions of subchapter IV of  
8 this chapter which relate to survivor annuities  
9 payable out of the Thrift Savings Fund;

10           ``(2) review the performance of investments made for  
11 the Thrift Savings Fund;

12           ``(3) without regard to civil service and  
13 classification laws, fix the rate of pay of the Executive  
14 Director;

15           ``(4) supervise the Executive Director; and

16           ``(5) review and approve the budget of the Board.

17       ``(d)(1) The Board may--

18           ``(A) adopt, alter, and use a seal;

19           ``(B) except as provided in paragraph (2) of this  
20 subsection, direct the Executive Director to take such  
21 action as the Board considers appropriate to carry out  
22 the provisions of this subchapter and subchapter III of  
23 this chapter, the provisions of subchapter IV of this  
24 chapter which relate to survivor annuities payable out of  
25 the Thrift Savings Fund, and the policies of the Board;

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1       “(C) upon the concurring votes of four members,  
2       remove the Executive Director from office for good cause  
3       shown after investigation by the Comptroller General of  
4       the United States and after considering any  
5       recommendations made by the Comptroller General with  
6       respect to the removal; and

7       “(D) take such other action as may be necessary to  
8       carry out the functions of the Board.

9       “(2) Except in the case of investments required by  
10      section 8427 of this title to be invested in securities of  
11      the Government, the Board may not direct the Executive  
12      Director or any contractor under a contract awarded under  
13      section 8494(c)(2) this title to invest or to cause to be  
14      invested any sums in the Thrift Savings Fund in a specific  
15      asset or to dispose of or cause to be disposed any specific  
16      asset of such Fund.

17      “(e) The members of the Board shall discharge their  
18      responsibilities solely in the interest of participants and  
19      beneficiaries under this chapter.

20      “§ 8492. Federal Retirement Thrift Advisory Committee

21      “(a)(1) The Board shall establish a Federal Retirement  
22      Thrift Advisory Committee (hereafter in this section referred  
23      to as the ‘Advisory Committee’).

24      “(2)(A) The Advisory Committee shall be composed of 6  
25      members appointed as provided in subparagraph (B) of this

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1 paragraph.

2       ``(B) The members of the Advisory Committee shall be  
3 appointed by action agreed to by a majority of the members  
4 the Board. Three of the members of the Advisory Committee  
5 shall be appointed from among investment asset managers not  
6 employed by the Government and three of the members of the  
7 Advisory Committee shall be appointed from among  
8 administrators of thrift savings plans established for  
9 employees of private sector enterprises.

10       ``(3) The Board shall prescribe the terms and conditions  
11 of service of the members of the Advisory Committee.

12       ``(b) The Advisory Committee shall--

13           ``(1) advise the Board and the Executive Director on  
14 matters relating to--

15           ``(A)(i) investment policy for the Thrift Savings  
16 Fund;

17           ``(ii) selection of the types of investment funds  
18 which are appropriate for investment of sums in the  
19 Thrift Savings Fund; and

20           ``(iii) selection of investment managers for the  
21 purpose of contracting for the administration of  
22 investment funds under section 8494(c)(2) of this  
23 title; and

24           ``(B)(i) the performance of the duties of the  
25 Board and the Executive Director under the provisions



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1 of this subchapter and subchapter III of this chapter  
2 and the provisions of subchapter IV of this chapter  
3 which relate to survivor annuities payable out of the  
4 Thrift Savings Fund; and

5 "(1) the administration of such provisions; and

6 "(2) review the performance of investments made for  
7 the Thrift Savings Fund.

8 "§ 8493. Employee Advisory Committee

9 "(a) The Board shall establish an Employee Advisory  
10 Committee. The Employee Advisory Committee shall be composed  
11 of 5 members, elected in accordance with subsection (b) of  
12 this section, each of whom is a participant and has an  
13 account balance in the Thrift Savings Fund.

14 "(b)(1) For the purposes of this subsection, the term  
15 'voting participant' means a participant who has an account  
16 balance in the Thrift Savings Fund.

17 "(2) The members of the Employee Advisory Committee  
18 shall be elected by majority vote of the voting participants  
19 that vote in accordance with this subsection and the  
20 regulations prescribed by the Executive Director.

21 "(3) Each voting participant shall have one vote for  
22 each vacancy on the Employee Advisory Committee. For each  
23 election, a voting participant shall be entitled to cast only  
24 one vote for an individual nominee.

25 "(4) Nominations for the election of members to the

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1 Employee Advisory Committee shall be solicited from voting  
2 participants. Each nominee shall have the opportunity, in  
3 accordance with the regulations prescribed by the Executive  
4 Director, to submit a brief statement to voting participants  
5 in connection with the election.

6 `` (5) Run-off elections shall be held in accordance with  
7 the regulations prescribed by the Executive Director

8 `` (6) Each member of the Employee Advisory Committee  
9 shall serve for a term of 2 years, except that, in accordance  
10 with regulations prescribed by the Executive Director, 3 of  
11 the first 5 members shall serve for a term of 3 years. In the  
12 event that a member, for any reason, fails to complete his or  
13 her term, an election will be held, in accordance with  
14 regulations prescribed by the Executive Director, to fill  
15 that vacancy for the remainder of the member's term.

16 `` (c) The Employee Advisory Committee shall act by  
17 resolution of a majority of the members.

18 `` (d) The Employee Advisory Committee shall--

19 `` (1) advise the Board and the Executive Director on  
20 matters relating to--

21 `` (A) investment policies for the Thrift Savings  
22 Fund, and

23 `` (B) selection of the types of investment funds  
24 that are appropriate for investment of sums in the  
25 Thrift Savings Fund;

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1           ``(2) advise the Executive Director regarding stocks  
2       to be excluded from the Common Stock Index Investment  
3       Fund in accordance with section 8427(b)(2)(C) of this  
4       title;

5           ``(3) exercise all rights as shareholders with  
6       respect to stocks purchased for investments of the Common  
7       Stock Index Investment Fund; and

8           ``(4) perform such other duties, as the Board may  
9       direct, with respect to investment funds established in  
10      accordance with section 8427(b)(1)(D) of this title.

11   ``§ 8494. Executive Director

12       ``(a)(1) The Board shall appoint an Executive Director by  
13      action agreed to by a majority of the members of the Board.  
14      The Executive Director shall have substantial experience,  
15      training, or expertise in the management of financial  
16      investments.

17       ``(2) The Board shall prescribe the terms and conditions  
18      of service of the Executive Director.

19       ``(b) The Executive Director shall--

20           ``(1) carry out the policies established by the  
21      Board;

22           ``(2) invest and manage the Thrift Savings Fund in  
23      accordance with the investment and other policies  
24      established by the Board;

25           ``(3) provide for payment of annuities and other

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1 authorized distributions from the Thrift Savings Fund  
2 under this chapter, by the Office or otherwise; and  
3       “(4) administer the provisions of this subchapter  
4 and subchapter III of this chapter and the provisions of  
5 subchapter IV of this chapter which relate to survivor  
6 annuities payable out of the Thrift Savings Fund.

7       “(c) The Executive Director, may--

8       “(1) prescribe regulations to carry out the  
9 responsibilities of the Executive Director under this  
10 section;

11       “(2) without regard to civil service and  
12 classification laws, appoint, employ, and fix the  
13 compensation of such personnel as may be necessary to  
14 carry out the provisions of this subchapter and  
15 subchapter III of this chapter and the provisions of  
16 subchapter IV of this chapter which relate to survivor  
17 annuities payable out of the Thrift Savings Fund;

18       “(3) enter into such contracts or other arrangements  
19 (including contracts for the performance of  
20 administrative services), and make such modifications  
21 thereof, as may be appropriate to carry out the  
22 provisions of this subchapter and section 8427 of this  
23 title and the policies of the Board;

24       “(4) except as provided in section 552a of this  
25 title, obtain from any Federal agency, including any

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1 independent establishment or instrumentality of the  
2 United States, advice, information, estimates,  
3 statistics, and such other assistance as the Executive  
4 Director considers necessary to carry out the provisions  
5 of this subchapter and subchapter III of this chapter,  
6 the provisions of subchapter IV of this chapter which  
7 relate to survivor annuities payable out of the Thrift  
8 Savings Fund, and the policies of the Board;

9       “(5) make such payments out of sums in the Thrift  
10 Savings Fund as the Executive Director determines are  
11 necessary to carry out the provisions of this subchapter,  
12 subchapter III of this chapter, the provisions of  
13 subchapter IV of this chapter which relate to survivor  
14 annuities payable out of the Thrift Savings Fund, and the  
15 policies of the Board;

16       “(6) pay the compensation, per diem, and travel  
17 expenses of personnel from the Thrift Savings Fund;

18       “(7) accept and utilize the services of individuals  
19 employed intermittently in the Government service and  
20 reimburse such individuals for travel expenses, as  
21 authorized by section 5703 of this title, including per  
22 diem as authorized by section 5702 of this title;

23       “(8) except as otherwise expressly prohibited by law  
24 or the policies of the Board, delegate any of the  
25 Executive Director's functions to such officers and

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1 employees under the Board as the Executive Director may  
2 designate and authorize such successive redelegations of  
3 such functions to such officers and employees under the  
4 Board as the Executive Director may consider to be  
5 necessary or appropriate; and

6 ``(9) take such other actions as are appropriate to  
7 carry out the functions of the Executive Director.

8 ``§ 8495. Investment policy

9 ``The Board shall develop investment policies under  
10 section 8491(c)(1) of this title which provide for--

11 ``(1) prudent investments suitable for accumulating  
12 funds for payment of retirement income;

13 ``(2) low administrative costs; and

14 ``(3) investments likely to receive broad acceptance  
15 by participants and the public, as determined by the  
16 Employee Advisory Committee.

17 ``§ 8496. Administrative provisions

18 ``(a) The Board shall meet--

19 ``(1) not less than once during each fiscal year; and

20 ``(2) at additional times at the call of the  
21 Chairman.

22 ``(b)(1) Except as provided in section 8491(d)(1)(C) of  
23 this title, the Board shall perform the functions and  
24 exercise the powers of the Board on a majority vote of a  
25 quorum of the Board.

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1       ``(2) A vacancy on the Board shall not impair the  
2 authority of a quorum of the Board to perform the functions  
3 and exercise the powers of the Board.

4       ``(c) Three members of the Board shall constitute a  
5 quorum for the transaction of business.

6       ``(d)(1) Each member of the Board who is not an officer  
7 or employee of the Federal Government and each member of the  
8 Federal Retirement Thrift Advisory Committee or the Employee  
9 Advisory Committee shall be compensated at the daily rate of  
10 basic pay payable for grade GS-18 under the General Schedule  
11 for each day or part thereof during which such member is  
12 engaged in performing a function of the Board, the Federal  
13 Retirement Thrift Advisory Committee, or the Employee  
14 Advisory Committee, as the case may be.

15       ``(2) A member of the Board, the Federal Retirement  
16 Thrift Advisory Committee, or the Employee Advisory Committee  
17 shall be paid travel, per diem, and other necessary expenses  
18 under subchapter I of chapter 57 of this title while  
19 traveling away from his home or regular place of business in  
20 the performance of the duties of the Board, the Federal  
21 Retirement Thrift Advisory Committee, or the Employee  
22 Advisory Committee, as the case may be.

23       ``(e) The accrued annual leave of any employee who is a  
24 member of the Board shall not be charged for any time used in  
25 performing service for the Board during any work period.

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1       “(f) Section 14(a)(2) of the Federal Advisory Committee  
2 Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the  
3 Federal Retirement Thrift Advisory Committee or the Employee  
4 Advisory Committee.

5       “§ 8497. Fiduciary responsibilities; liability and penalty

6       “(a) For the purposes of this section--

7       “(1) the term ‘fiduciary’ means--

8       “(A) each member of the Federal Retirement  
9 Thrift Advisory Committee and the Executive Director;

10       “(B) any person who has or exercises  
11 discretionary authority or discretionary control over  
12 the management or disposition of the assets of the  
13 Thrift Savings Fund;

14       “(C) each member of the Employee Advisory  
15 Committee with respect to the member’s duties in  
16 connection with the Common Stock Index Investment  
17 Fund, except with respect to the performance of the  
18 function referred to in section 8427(b)(2)(C) of this  
19 title; and

20       “(D) any person who, with respect to the Thrift  
21 Savings Fund, is described in section 3(21)(A) of the  
22 Employee Retirement Income Security Act of 1974 (29  
23 U.S.C. 1002(21)(A));

24       except that, such term does not include the members of  
25 the Board;



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1       “(2) the term ‘party in interest’ includes--

2           “(A) any fiduciary;

3           “(B) any counsel to a fiduciary;

4           “(C) any participant;

5           “(D) any person providing services to the Board  
6 or the Executive Director;

7           “(E) a labor organization the members of which  
8 are participants;

9           “(F) a spouse, ancestor, lineal descendant, or  
10 spouse of a lineal descendant of a person described  
11 in subclause (A), (B), or (D) of this clause;

12          “(G) a corporation, partnership, or trust or  
13 estate of which, or in which, 50 percent or more of--

14           “(i) the combined voting power of all  
15 classes of stock entitled to vote or the total  
16 value of shares of all classes of stock of such  
17 corporation;

18           “(ii) the capital interest or profits  
19 interest of such partnership; or

20           “(iii) the beneficial interest of such trust  
21 or estate,

22 is owned directly or indirectly, or held by a person  
23 described in subclause (A), (B), (D), or (F) of this  
24 clause;

25          “(H) an employee, officer, director, or an

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1 individual having powers or responsibilities similar  
2 to those of an officer and director, or a holder  
3 (directly or indirectly) of 10 percent or more of the  
4 shares of a corporation referred to in subclause (F)  
5 of this clause; and

6 ``(I) an employee, officer, director, or an  
7 individual having powers or responsibilities similar  
8 to those of an officer and director, or a person who,  
9 directly or indirectly, is at least a 10 percent  
10 partner or joint venturer (measured in capital or  
11 profits) of a person described in subclause (A), (B),  
12 (D), (F), or (G) of this clause;

13 ``(3) the term 'person' means an individual,  
14 partnership, joint venture, corporation, mutual company,  
15 joint-stock company, trust, estate, unincorporated  
16 organization, association, or labor organization; and

17 ``(4) the term 'adequate consideration' means--

18 ``(A) in the case of a security for which there  
19 is a generally recognized market--

20 ``(1) the price of the security prevailing on  
21 a national securities exchange which is  
22 registered under section 6 of the Securities  
23 Exchange Act of 1934; or

24 ``(11) if the security is not traded on such  
25 a national securities exchange, a price not less

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1 favorable to the Thrift Savings Fund than the  
2 offering price for the security as established by  
3 the current bid and asked prices quoted by  
4 persons independent of the issuer and of any  
5 party in interest;

6 "(B) in the case of an asset other than a  
7 security or in the case of a service for which there  
8 is a generally recognized market, the fair market  
9 value of the asset or service as determined in good  
10 faith by the fiduciary or fiduciaries with  
11 discretionary authority or control over the  
12 acquisition, management, or disposition of the asset  
13 or over the retention of the service; and

14 "(C) in the case of any other asset or service--  
15 "(i) the most favorable price to the Thrift  
16 Savings Fund as determined by a competitive  
17 bidding process conducted in accordance with  
18 regulations prescribed by the Executive Director;

19 "(ii) the most favorable price to the Thrift  
20 Savings Fund as determined by at least 2  
21 appraisals conducted by qualified appraisers  
22 independent of the seller, purchaser, or  
23 provider, as the case may be, and independent of  
24 any party in interest; or

25 "(iii) the fair market value as determined

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1 by the fiduciary or fiduciaries who have  
2 discretionary authority or control over the  
3 acquisition, management, or disposition of the  
4 asset or over the retention of the service and  
5 are independent of the person or persons entering  
6 into the subject transaction with the Thrift  
7 Savings Fund, in accordance with regulations  
8 prescribed by the Executive Director.

9 `` (b)(1) A fiduciary shall discharge his responsibilities  
10 with respect to the Thrift Savings Fund or applicable portion  
11 thereof solely in the interest of the participants and  
12 beneficiaries and--

13 `` (A) for the exclusive purpose of--

14 `` (i) providing benefits to participants and  
15 their beneficiaries; and

16 `` (ii) defraying reasonable expenses of  
17 administering the Thrift Savings Fund or applicable  
18 portions thereof;

19 `` (B) with the care, skill, prudence, and diligence  
20 under the circumstances then prevailing that a prudent  
21 individual acting in a like capacity and familiar with  
22 such matters would use in the conduct of an enterprise of  
23 a like character and with like objectives;

24 `` (C) to the extent permitted by section 8427 of this  
25 title, by diversifying the investments of the Thrift

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1 Savings Fund or applicable portions thereof so as to  
2 minimize the risk of large losses, unless under the  
3 circumstances it is clearly prudent not to do so; and

4 "(D) in accordance with the provisions of this  
5 chapter and the policies prescribed by the Board.

6 "(2) No fiduciary may maintain the indicia of ownership  
7 of any assets of the Thrift Savings Fund outside the  
8 jurisdiction of the district courts of the United States.

9 "(c) A fiduciary shall not--

10 "(1) deal with any assets of the Thrift Savings Fund  
11 in his own interest or for his own account;

12 "(2) act, in his individual or any other capacity,  
13 in any transaction involving the Thrift Savings Fund on  
14 behalf of a party, or representing a party, whose  
15 interests are adverse to the interests of the Thrift  
16 Savings Fund or the interests of its participants or  
17 beneficiaries;

18 "(3) receive any consideration for his own personal  
19 account from any party dealing with sums credited to the  
20 Thrift Savings Fund in connection with a transaction  
21 involving assets of the Thrift Savings Fund, except fees  
22 which the fiduciary is entitled to receive as provided in  
23 a contract awarded under section 8494(c)(2) of this  
24 title;

25 "(4) permit the transfer of any assets of the Thrift

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1 Savings Fund to or the use of such assets by any person  
2 known to be a party in interest, except in return for  
3 adequate consideration; or

4 ``(5) permit the acquisition of any property from or  
5 services by any person known to be a party in interest,  
6 except in exchange for adequate consideration.

7 ``(d) This section does not prohibit any fiduciary from--

8 ``(1) receiving any benefit which the fiduciary is  
9 entitled to receive under this chapter as a participant,  
10 a former participant, or a beneficiary of a participant  
11 or former participant;

12 ``(2) receiving any reasonable compensation  
13 authorized by this title for services rendered, or for  
14 reimbursement of expenses properly and actually incurred,  
15 in the performance of the fiduciary's duties under this  
16 chapter; or

17 ``(3) serving as a fiduciary in addition to being an  
18 officer, employee, agent, or other representative of a  
19 party in interest.

20 ``(e)(1)(A) Any fiduciary that breaches the  
21 responsibilities, duties, and obligations set out in  
22 subsection (b) of this section or violates subsection (c) of  
23 this section shall be liable to the Thrift Savings Fund for  
24 any losses to such fund resulting from each such breach or  
25 violation and to restore to such fund any profits made by the

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1 fiduciary through use of assets of such fund by the  
2 fiduciary, and shall be subject to such other equitable or  
3 remedial relief as a court considers appropriate. A fiduciary  
4 may be removed for a breach referred to in the preceding  
5 sentence.

6     “(B) The Secretary of Labor may assess a civil penalty  
7 against a party in interest engaging in a transaction  
8 prohibited by subsection (c) of this section. The amount of  
9 such penalty may not exceed 5 percent of the amount involved  
10 (as defined in section 4975(f)(4) of the Internal Revenue  
11 Code of 1954); except that, if the transaction is not  
12 corrected (in such manner as the Secretary of Labor shall  
13 prescribe by regulation consistent with section 4975(f)(5) of  
14 the Internal Revenue Code of 1954) within 90 days after the  
15 date the Secretary of Labor transmits notice to the party in  
16 interest (or such longer period as the Secretary of Labor may  
17 permit), such penalty may be in an amount not more than 100  
18 percent of the amount involved.

19     “(C) A fiduciary shall not be liable under subparagraph  
20 (A) of this paragraph with respect to a breach of fiduciary  
21 duty under subsection (b) of this section committed before  
22 becoming a fiduciary or after ceasing to be a fiduciary.

23     “(D) A fiduciary shall be jointly and severally liable  
24 under subparagraph (A) of this paragraph for a breach of  
25 fiduciary duty under subsection (b) of this section by

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1 another fiduciary if--

2       “(1) the fiduciary participates knowingly in, or  
3 knowingly undertakes to conceal, an act or omission of  
4 such other fiduciary, knowing such act or omission is  
5 such a breach;

6       “(11) by the fiduciary's failure to comply with  
7 subsection (b) of this section in the administration of  
8 the fiduciary's specific responsibilities which give rise  
9 to the fiduciary status, the fiduciary has enabled such  
10 other fiduciary to commit such a breach; or

11       “(111) the fiduciary has knowledge of a breach by  
12 such other fiduciary, unless the fiduciary makes  
13 reasonable efforts under the circumstances to remedy the  
14 breach.

15       “(E) The Board shall prescribe, in regulations,  
16 procedures for allocating fiduciary responsibilities among  
17 fiduciaries, including investment managers. Any fiduciary  
18 who, pursuant to such procedures, allocates to a person or  
19 persons any fiduciary responsibility shall not be liable for  
20 an act or omission of such person or persons unless--

21       “(1) such fiduciary violated subsection (b) of this  
22 section with respect to the allocation, with respect to  
23 the implementation of the procedures prescribed by the  
24 Board, or in continuing such allocation; or

25       “(11) such fiduciary would otherwise be liable in



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1 accordance with subparagraph (D) of this paragraph.

2 ``(2) A civil action may be brought in the district  
3 courts of the United States--

4 ``(A) by the Secretary of Labor--

5 ``(1) to determine and enforce a liability under  
6 paragraph (1)(A) of this subsection;

7 ``(11) to collect any civil penalty under  
8 paragraph (1)(B) of this subsection; or

9 ``(111) to enjoin any act or practice which  
10 violates section 8491(e) of this title;

11 ``(B) by the Secretary of Labor, any participant,  
12 annuitant, former participant who is entitled to a  
13 deferred annuity under section 8412 of this title, other  
14 beneficiary, or fiduciary--

15 ``(1) to enjoin any act or practice which  
16 violates any provision of subsection (b) or (c) of  
17 this section; or

18 ``(11) to obtain any other appropriate equitable  
19 relief to redress a violation of any such provision;  
20 or

21 ``(C) by any participant, annuitant, former  
22 participant entitled to a deferred annuity under section  
23 8412 of this title, or other beneficiary to recover  
24 benefits due to him or her under the provisions of this  
25 chapter, to enforce his or her rights under such

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1 provisions, or to clarify his or her rights to future  
2 benefits under such provisions.

3 `` (3) An action may not be commenced under paragraph (2)  
4 of this subsection with respect to a fiduciary's breach of  
5 any responsibility, duty, or obligation under subsection (b)  
6 of this section or a violation of subsection (c) of this  
7 section after the earlier of--

8 `` (A) 6 years after (i) the date of the last action  
9 which constituted a part of the breach or violation, or  
10 (ii) in the case of an omission, the latest date on which  
11 the fiduciary could have cured the breach or violation;  
12 or

13 `` (B) 3 years after the earliest date on which the  
14 plaintiff had actual knowledge of the breach or  
15 violation; except that, in the case of fraud or  
16 concealment, such action may be commenced not later than  
17 6 years after the date of discovery of such breach or  
18 violation.

19 `` (4)(A) Except for actions under paragraph (2)(C) of  
20 this subsection, the district courts of the United States  
21 shall have exclusive jurisdiction of civil actions under this  
22 subsection. State courts of competent jurisdiction and  
23 district courts of the United States shall have concurrent  
24 jurisdiction of actions under paragraph (2)(C) of this  
25 subsection.

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1       “(B) An action under this subsection may be brought in  
2 the District Court of the United States for the District of  
3 Columbia or a district court of the United States in the  
4 district where the breach alleged in the complaint or  
5 petition filed in the action took place or in the district  
6 where a defendant resides or may be found. Process may be  
7 served in any other district where a defendant resides or may  
8 be found.

9       “(5)(A) A copy of the complaint or petition filed in any  
10 action brought under this subsection (other than by the  
11 Secretary of Labor) shall be served on the Director, the  
12 Executive Director, the Secretary of Labor, and the Secretary  
13 of the Treasury by certified mail.

14       “(B) Any officer referred to in subparagraph (A) of this  
15 paragraph shall have the right in his discretion to intervene  
16 in any action. If the Secretary of Labor brings an action  
17 under paragraph (2) of this subsection on behalf of a  
18 participant or beneficiary, he shall notify the Director, the  
19 Executive Director, and the Secretary of the Treasury.

20       “§ 8498. Bonding

21       “(a)(1) Except as provided in paragraphs (2) and (3) of  
22 this subsection, each fiduciary and each person who handles  
23 funds or property of the Thrift Savings Fund shall be bonded  
24 as provided in this section.

25       “(2) Members of the Federal Retirement Thrift Advisory

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1 Committee or Employee Advisory Committee and the Executive  
2 Director shall be exempt from the bonding requirements of  
3 this section.

4       “(3)(A) Bond shall not be required of a fiduciary (or of  
5 any director, officer, or employee of such fiduciary) if such  
6 fiduciary--

7           “(1) is a corporation organized and doing business  
8 under the laws of the United States or of any State;

9           “(11) is authorized under such laws to exercise  
10 trust powers or to conduct an insurance business;

11           “(111) is subject to supervision or examination by  
12 Federal or State authority; and

13           “(iv) has at all times a combined capital and  
14 surplus in excess of such minimum amount (not less than  
15 \$1,000,000) as the Secretary of Labor prescribes in  
16 regulations.

17       “(B) If--

18           “(1) a bank or other financial institution would,  
19 but for this subparagraph, not be required to be bonded  
20 under this section by reason of the application of the  
21 exception provided in subparagraph (A) of this paragraph,

22           “(11) the bank or financial institution is  
23 authorized to exercise trust powers, and

24           “(111) the deposits of the bank or financial  
25 institution are not insured by the Federal Deposit

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1 Insurance Corporation or the Federal Savings and Loan  
2 Insurance Corporation,  
3 such exception shall apply to such bank or financial  
4 institution only if the bank or institution meets bonding  
5 requirements under State law which the Secretary of Labor  
6 determines are at least equivalent to those imposed on banks  
7 by Federal law.

8 `` (b)(1) The Secretary of Labor shall prescribe the  
9 amount of a bond under this section at the beginning of each  
10 fiscal year. Except as otherwise provided in this paragraph,  
11 such amount shall not be less than 10 per centum of the  
12 amount of funds handled. In no case shall such bond be less  
13 than \$1,000 nor more than \$500,000, except that the Secretary  
14 of Labor, after due notice and opportunity for hearing to all  
15 interested parties, and other consideration of the record,  
16 may prescribe an amount in excess of \$500,000.

17 `` (2) For the purpose of prescribing the amount of a bond  
18 under paragraph (1) of this subsection, the amount of funds  
19 handled shall be determined by reference to the amount of the  
20 funds handled by the person, group, or class to be covered by  
21 such bond or by their predecessor or predecessors, if any,  
22 during the preceding fiscal year, or to the amount of funds  
23 to be handled during the current fiscal year by such person,  
24 group, or class, estimated as provided in regulations  
25 prescribed by the Secretary of Labor.

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1       “(c) A bond required by subsection (a) of this section--

2               “(1) shall include such terms and conditions as the  
3       Secretary of Labor considers necessary to protect the  
4       Thrift Savings Fund against loss by reason of acts of  
5       fraud or dishonesty on the part of the bonded person  
6       directly or through connivance with others;

7               “(2) shall have as surety thereon a corporate surety  
8       company which is an acceptable surety on Federal bonds  
9       under authority granted by the Secretary of the Treasury  
10      pursuant to sections 6 through 13 of title 6, United  
11      States Code; and

12              “(3) shall be in a form or of a type approved by the  
13      Secretary of Labor, including individual bonds or  
14      schedule or blanket forms of bonds which cover a group or  
15      class.

16      “(d)(1) It shall be unlawful for any person to whom  
17      subsection (a) of this section applies, to receive, handle,  
18      disburse, or otherwise exercise custody or control of any of  
19      the funds or other property of the Thrift Savings Fund  
20      without being bonded as required by this section.

21      “(2) It shall be unlawful for any fiduciary, or any  
22      other person having authority to direct the performance of  
23      functions described in paragraph (1) of this subsection, to  
24      permit any such function to be performed by any person to  
25      whom subsection (a) of this section applies unless such

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1 person has met the requirements of such subsection.

2       “(e) Notwithstanding any other provision of law, any  
3 person who is required to be bonded as provided in subsection  
4 (a) of this section shall be exempt from any other provision  
5 of law which would, but for this subsection, require such  
6 person to be bonded for the handling of the funds or other  
7 property of the Thrift Savings Fund.

8       “(f) The Secretary of Labor shall prescribe such  
9 regulations as may be necessary to carry out the provisions  
10 of this section, including exempting a person or class of  
11 persons from the requirements of this section.

12   “§ 8499. Exculpatory provisions; insurance

13       “(a) Any provision in an agreement or instrument which  
14 purports to relieve a fiduciary from responsibility or  
15 liability for any responsibility, obligation, or duty under  
16 this subchapter shall be void.

17       “(b)(1) The Executive Director may require employing  
18 agencies to contribute an amount not to exceed one percent of  
19 the amount such agencies are required to contribute in  
20 accordance with section 8421(b) of this title to the Thrift  
21 Savings Fund.

22       “(2) The sums credited to the Thrift Savings Fund under  
23 paragraph (1) of this subsection shall be available and may  
24 be used at the discretion of the Executive Director to  
25 purchase insurance to cover potential liability of persons

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1 who serve in a fiduciary capacity with respect to the Thrift  
2 Savings Fund, without regard to whether a policy of insurance  
3 permits recourse by the insurer against the fiduciary in the  
4 case of a breach of a fiduciary obligation.''.  
5

6 (b) The table of chapters at the beginning of part III of  
7 such title is amended by inserting after the item relating to  
8 chapter 83 the following new item:

9 ``84. Federal Retirement System..... 8401.''.  
10

11 TITLE II--AMENDMENTS RELATING TO SOCIAL SECURITY

12 AMENDMENTS TO THE SOCIAL SECURITY ACT

13 Sec. 201. Section 210(a)(5) of the Social Security Act is  
14 amended--

15 (1) by striking out ``or'' at the end of subparagraph  
16 (F);

17 (2) by striking out the semicolon at the end of  
18 subparagraph (G) and inserting in lieu thereof `` , or'';  
19 and

20 (3) by adding at the end thereof the following new  
21 subparagraph:

22 `` (H) service performed by an individual after  
23 such individual has commenced participation in the  
24 Federal Retirement System pursuant to section 8471 of  
25 title 5, United States Code;''.

26 AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

27 Sec. 202. Section 3121(b)(5) of the Internal Revenue Code



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1 of 1954 is amended--

2 (1) by striking out ``or`` at the end of subparagraph  
3 (F);

4 (2) by striking out the semicolon at the end of  
5 subparagraph (G) and inserting in lieu thereof `` , or ``;  
6 and

7 (3) by adding at the end thereof the following new  
8 subparagraph:

9 `` (H) service performed by an individual after  
10 such individual has commenced participation in the  
11 Federal Retirement System pursuant to section 8471 of  
12 title 5, United States Code; ``.

13 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS  
14 EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION  
15 TEMPORARY ADJUSTMENT ACT OF 1983

16 Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),  
17 203(a)(4)(B), 204(a), 206(b)(2)(A)(1), and 206(c)(3) of the  
18 Federal Employees' Retirement Contribution Temporary  
19 Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note)  
20 are amended by striking out ``January 1, 1986`` each place it  
21 appears and inserting in lieu thereof ``January 1, 1987``.

22 (b) Section 205 of such Act is amended by striking out  
23 ``and 1986`` in subsections (b) and (c) and inserting in lieu  
24 thereof ``1986, and 1987``.

25 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED

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1 STATES CODE .

2 Sec. 302. (a) Section 8331(1)(G) of title 5, United  
3 States Code, is amended to read as follows:

4 `` (G) an individual first employed by the  
5 government of the District of Columbia before January  
6 1, 1987; ``.

7 (b)(1) Section 8332(j)(1) of such title is amended--

8 (A) in the first sentence--

9 (i) by inserting ``civilian service,`` after  
10 ``Notwithstanding any other provision of this  
11 section,``;

12 (ii) by inserting ``for such service`` before the  
13 period at the end thereof; and

14 (B) in the second sentence, by striking out ``If the  
15 military service`` and inserting in lieu thereof ``If the  
16 civilian service, military service,``.

17 (2) Section 8332 of such title is further amended by  
18 adding at the end thereof the following new subsection:

19 `` (n) Except as provided in section 8472(b) of this  
20 title, service performed while a participant in the Federal  
21 Retirement System under chapter 84 of this title is not  
22 creditable under this section.``.

23 (c)(1) The first sentence of section 8333(b) of such  
24 title is amended by inserting ``or chapter 84 of this title``  
25 after ``subject to this subchapter``.

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1       (2) Section 8333(c) of such title is amended by adding at  
2 the end thereof the following new sentence: ``The  
3 requirements of the first sentence shall apply only with  
4 respect to the civilian service performed by a Member while  
5 not a participant in the Federal Retirement System under  
6 chapter 84 of this title.''.  
7

8       (d) Subsection (a) of section 8334 of such title is  
9 amended--

10       (1) in the first sentence of paragraph (1), by  
11 striking out ``The employing'' and inserting in lieu  
12 thereof ``Except as provided in paragraph (3) of this  
13 subsection, the employing''; and

14       (2) by adding at the end thereof the following new  
15 paragraph:

16       ``(3)(A) In the case of an employee or Member who was  
17 subject to this subchapter before January 1, 1984, and whose  
18 service--

19       ``(1) is employment for the purposes of title II of  
20 the Social Security Act and chapter 21 of the Internal  
21 Revenue Code of 1954; and

22       ``(11) is not creditable service for any purpose  
23 under chapter 84 of this title,  
24 an employing agency shall deduct and withhold from the basic  
25 pay of the employee or Member under paragraph (1) of this  
subsection during any pay period only the amount computed

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1 pursuant to subparagraph (B) of this paragraph.

2       “(B) The amount deducted and withheld from basic pay  
3 during any pay period pursuant to subparagraph (A) of this  
4 paragraph in the case of an employee or Member referred to in  
5 such subparagraph shall be the excess of--

6           “(1) the amount determined by multiplying the  
7 percent applicable to the employee or Member under  
8 paragraph (1) of this subsection by the basic pay payable  
9 for such pay period, over

10          “(11) the amount of the taxes deducted and withheld  
11 from such basic pay under section 3101(a) of the Internal  
12 Revenue Code of 1954 for such pay period.”.

13       (e) Section 8347(a) of such title is amended by adding at  
14 the end thereof the following: “The Office may contract for  
15 the performance of administrative services necessary to carry  
16 out its responsibilities under this subchapter.”.

17       (f) Section 8348(a) of such title is amended--

18           (1) in paragraph (1)(A), by inserting “or the  
19 provisions of chapter 84 of this title which relate to  
20 benefits payable out of the Fund” after “subchapter”;  
21 and

22           (2) in paragraph (2), by inserting “, chapter 84 of  
23 this title,” after “chapter”.

24 CONFORMING PROVISIONS FOR THE POSTAL SERVICE RETIREMENT  
25 SYSTEM

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1       Sec. 303. Section 1005(d) of title 39, United States

2       Code, is amended to read as follows:

3       “(d) Officers and employees of the Postal Service (other  
4       than the Governors) shall be covered by chapters 83 and 84 of  
5       title 5 according to the provisions of such chapters. The  
6       Postal Service shall withhold from pay and shall pay into the  
7       Civil Service Retirement and Disability Fund the amounts  
8       specified in or determined under such chapter 83. The Postal  
9       Service shall pay into the Civil Service Retirement and  
10      Disability Fund the amounts specified or determined under  
11      subchapters II and V of such chapter 84. The Postal Service  
12      shall pay into the Federal Retirement Thrift Savings Fund the  
13      amounts specified in or determined under subchapter III of  
14      such chapter 84.”.

15                   HEALTH BENEFIT PLAN AMENDMENTS

16      Sec. 304. (a) Section 8901(1)(E) of title 5, United  
17      States Code, is amended to read as follows:

18              “(E) an individual first employed by the  
19              government of the District of Columbia before January  
20              1, 1987;”.

21      (b) Section 8901(10) of such title is amended--

22              (1) in subparagraph (C)(1)--

23                   (A) by inserting “or 8467” after “8345(j)”;

24                   and

25                   (B) by inserting “or 8434” after “8341(h)”;

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1           and

2           (2) in subparagraph (C)(11)--

3           (A) by inserting ``or 8434'' after ``8341(h)'';

4           and

5           (B) by inserting ``or 8467'' after ``8345(j)''.

6           (c)(1) Subsection (b) of section 8905 of such title is

7 amended--

8           (A) by redesignating subparagraphs (A), (B), and (C)

9           of paragraph (1) as clauses (1), (11), and (111),

10          respectively;

11          (B) by redesignating paragraphs (1) and (2) as

12          subparagraphs (A) and (B), respectively;

13          (C) by inserting ``(1)'' after ``(b)''; and

14          (D) by adding at the end thereof the following new

15          paragraph (2):

16          ``(2) A member of family of a deceased employee or

17          annuitant who was enrolled in a health benefit plan under

18          this chapter on the date of death of the employee or

19          annuitant may continue the enrollment under the conditions of

20          eligibility prescribed in regulations issued by the

21          Office.''.

22          (2) Subsection (c)(1) of such section is amended--

23          (A) in subparagraph (B), by inserting ``or

24          8435(a)(1)''; and

25          (B) in the second sentence--

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1 (1) by inserting ``or 8434`` after ``8341(h)``;

2 and

3 (ii) by inserting ``or 8467`` after ``8345(j)``.

4 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND INSTRUMENTALITIES

5 Sec. 305. Section 2105(c) of title 5, United States Code,  
6 is amended by inserting ``chapter 84,`` after ``chapter  
7 81`` in clause (2) of the first sentence.

8 DISCLOSURE OF EARNINGS INFORMATION OF DISABLED FEDERAL  
9 EMPLOYEES

10 Sec. 306. (a) Paragraph (7)(D) of section 6103(1) of the  
11 Internal Revenue Code of 1954 (relating to disclosure of  
12 returns and return information for purposes other than tax  
13 administration) is amended--

14 (1) by striking out ``and`` at the end of clause  
15 (vi);

16 (2) by striking out the period at the end of clause  
17 (vii) and inserting in lieu thereof a semicolon and  
18 ``and``; and

19 (3) by adding at the end thereof the following new  
20 clause:

21 `` (vii) disability benefits provided under  
22 subchapter III of chapter 83 of title 5, United  
23 States Code, or subchapter V of chapter 84 of  
24 such title.``.

25 (b) The heading of paragraph (7) of section 6103(1) of

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1 such Code is amended to read as follows:

2       ``(7) Disclosure of return information to Federal,  
3 State, and local agencies administering certain programs  
4 under the Social Security Act or the Food Stamp Act of  
5 1977 or certain civil service disability benefits  
6 programs.--''.

7       TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

8       FIRST YEAR EXPENSES OF THE FEDERAL RETIREMENT THRIFT

9       INVESTMENT MANAGEMENT SYSTEM

10       Sec. 401. (a) Notwithstanding section 8426(c)(3) of title  
11 5, United States Code, as added by section 101 of this Act,  
12 the expenses incurred in the administration of the Federal  
13 Retirement Thrift Investment Management System prescribed in  
14 subchapter VIII of chapter 84 of such title, as added by  
15 section 101 of this Act, during fiscal years 1986 and 1987  
16 shall be paid from sums appropriated pursuant to subsection  
17 (b).

18       (b) There are authorized to be appropriated to the  
19 Federal Retirement Thrift Investment Board, for fiscal years  
20 1986 and 1987, such sums as may be necessary to pay the  
21 expenses incurred in the administration of the Federal  
22 Retirement Thrift Investment Management System prescribed in  
23 subchapter VIII of chapter 84 of title 5, United States Code,  
24 as added by section 101 of this Act, during such fiscal  
25 years.



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## 1 AUTHORIZATION TO CARRY OUT INFORMATION PROGRAM

2 Sec. 402. (a) The Office of Personnel Management shall  
3 take appropriate action during fiscal years 1986 and 1987, to  
4 make available on or before January 1, 1987, the information  
5 described in section 8469 of title 5, United States Code, as  
6 added by section 101(a) of this Act.

7 (b) There are authorized to be appropriated \$1,000,000 to  
8 the Office of Personnel Management for fiscal year 1986 to  
9 carry out subsection (a). Sums appropriated pursuant to this  
10 authorization shall remain available until expended or until  
11 October 1, 1987, whichever is earlier.

## 12 EFFECTIVE DATES

13 Sec. 403. (a) Except as provided in subsection (b), this  
14 Act and the amendments made by this Act shall take effect  
15 January 1, 1987.

16 (b) Subchapter VIII of chapter 84 of title 5, United  
17 States Code (relating to the Federal Retirement Thrift  
18 Investment Management System), as added by section 101, shall  
19 take effect on the date of enactment.

20 (c) The program required by section 8426(e) of title 5,  
21 United States Code, as added by section 101(a) of this Act,  
22 shall be established not later than January 1, 1988.